WAYS TO PEACE

INTRODUCTION BY

ESTHER EVERETT LAPE

PREFACE BY

EDWARD W. BOK

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April 1924.

WAYS TO PEACE

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Twenty Plans Selected from the Most Representative of Those Submitted to The American Peace Award for the Best Practicable Plan by Which The United States May Co-operate With Other Nations to Achieve and Preserve The Peace of the World

WITH AN INTRODUCTION BY

ESTHER EVERETT LAPE

Member in Charge of The Policy Committee

AND A PREFACE BY

EDWARD W. BOK

Founder of the Award

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EDITOR'S NOTE

In editing this book I have, without reference to the Jury's deliberations, selected the plans published here as able presentations of significant types of proposals submitted in the competition.

ESTHER EVERETT LAPE.

10269

HOW THE AMERICAN PEACE AWARD CAME TO BE

I

The impulse leading to the American Peace Award came directly from the American people.

In the autumn of 1921 I noticed in my correspondence a distinct note of increasing dissatisfaction with national and international affairs. These correspondents were not known to me. They wrote seeking my active interest. Following the puzzling elections of that year, the note of restless discontent in the letters became more pronounced.

I began to be interested, and tried to find out in a definite way the nature of the disturbing problems. Thus encouraged by my apparent interest my correspondents either referred me to others who could give me the information I desired, or they induced these to write to me. It was not many weeks before I found myself in correspondence with an impressive number of business men of large contacts who, in turn, induced others of larger contacts to write. Supplementing this increasing correspondence, which soon assumed overwhelming proportions, I began to read the newspapers of other cities, which come to me in large numbers, as well as the "organs" or "bulletins" or magazines of large civic, economic and religious organizations. Wherever I went I personally pursued my research by asking and listening.

II

After some five months of this extensive research correspondence, the contents of which I had carefully tabulated as to subjects, I had a reflection of a cross-section of American opinion which surprised me because of its extent and intelligence. Every part of the country was represented; every station in life. I made a retabulation, and finally compressed the material down to the dominating subjects which seemed to be the chief reasons of discontent.

There were several, but overshadowing all others was a general feeling of dissatisfaction that, although it was three years since the ending of the war, practically nothing had been done by the United States Government to avoid another war and to do its part to achieve and preserve the peace of the world.

From every direction came the opinion that "we should do something:" in the great majority of instances, no concrete suggestion was advanced. I was surprised, however, at the intelligence and wide interest shown in regard to international affairs, and I became very soon convinced that the American people wanted to give voice to their opinions as to what should be done. Of the concrete proposals, the most usual suggestion was a newspaper or magazine through which they could express themselves: an obvious suggestion.

But in almost every letter was the expressed desire, sometimes in the most vehement terms, that there be created some unpartisan and non-political channel through which the people could express themselves

on this and other national and international subjects. Literally, hundreds gave vent to this idea of what they called a defect in our system of contact of citizen and Government. They brushed aside the idea of the ballot. "We want to talk, not vote," they wrote. "We want to give expression to our views on these questions—to what we think. We want a direct hand in settling these questions."

When the newspapers were suggested as a channel of expression, they were dismissed as partisan. When Representatives or Senators were suggested, the people replied, "No: we want a channel of our own: a direct, open way to Washington, not via the newspapers or the politicians; a way which assures us that our views will be heard and considered, and that our voice will carry to Washington."

There was always a deadly earnestness in this demand; there was a distinct note of impatience with prevailing conditions, and there was a whip-like method of expression, verbal and written, that indicated deep-rooted dissatisfaction with things as they are.

III

It was the discovery of this widely prevalent note that led straight to The American Peace Award. If the American people were really willing to make these great problems their own, to accept their part in the responsibility for their solution,—all of which I had up to this time doubted,—and if they were actually crying aloud for a channel through which they could ex-

press themselves, I decided that they should have such a medium, simple and direct.

I had made other Awards, and it was natural that this channel of expression should suggest itself.

IV

The results achieved thus far have fully justified the effort. I realized, of course, that before any ultimate result could be obtained it was imperative that the American people should, first of all, think in terms of peace before they could have peace. That must be the first step, and of course this was one of the chief aims of the Award. That has been accomplished, if one may judge from the widespread reaction of press and public to the Award from every part of the United States. It is quite within the bounds of conservatism to say that not for a long time, if ever, was a united national mind so concretely fixed upon the question of peace as during the months of the progress of The American Peace Award. Individuals, groups, clubs, organizations, faculties of colleges, entire communities have been thinking, planning, talking, studying, discussing, and writing peace. Over a quarter of a million of American citizens wrote and asked for the conditions under which plans might be submitted. Hundreds of thousands of letters received at the Award headquarters reflected the opinions of the writers. Plans from the most prominent men and women of the United States passed under the scrutiny of the Jury of Award. Scarcely a newspaper or periodical published throughout the length and breadth of the United States has not printed from one to

a dozen news articles and editorials touching different aspects of the Award. A group of newspapers and periodicals opened their pages to printing plans sent by their readers which were afterward submitted to the Jury of Award. Meetings innumerable were held at which the Award has been the sole topic; scores of conventions passed resolutions of endorsement, and pastors, literally by the hundred, chose the Award as their subject. Ninety-seven of the most powerful organizations of all kinds united themselves with the undertaking, and presented the idea to their memberships through their printed publications.

Then followed the nation-wide referendum which brought the subject even closer to the people and made the question of peace an individual matter.

V

Some will say—have said, in fact—that all this widespread attention was attracted by the offer of $100,000 for a winning plan. Unquestionably. That was exactly why the monetary phase was introduced into the Award. Its purpose was to dramatize the idea. It spoke, too, of the serious intent of the founder of the Award. In fact, it did exactly what it was hoped and intended it should do: it gripped the imagination of thousands who would otherwise not have been attracted, and it focused public attention upon the Award as no other single factor could have done. It stimulated idealism by the golden spur of self-interest. The same idea of individual emulation lies in the Nobel awards, and in the Woodrow Wilson, Theodore Roosevelt and Joseph Pulit-

zer awards. Systems of monetary rewards, as a method of inspiration, are as old as the hills. It is human to work our best when the rewards are greatest. But it may also be true that hundreds of the plans submitted came, not because of the financial attraction, but because they were asked for and a channel was afforded for their consideration.

I was prepared for the fact that the money phase of the Award would be stressed, and, in some quarters, criticised. But I was also aware of the fact that the men and women who were to associate themselves with the conduct of the Award would at once, from their distinction and authority of position, give to the idea its proper place of dignity and solidity. The money was not intended, as the unintelligent and carping were so quick to say, to buy world peace: its purpose was to play its part in making the subject one of widespread thought and discussion, with the result of bringing a united national mind within definable terms.

VI

Another distinct accomplishment of The American Peace Award was a clearer recognition by the people of the United States of the fact that they cannot sit placidly by and see Rome burn: that we are a part of the world, and, as such, must play our part in it. In other words, no single effort of late succeeded in so fixing the attention of the people of the United States upon our foreign relations, and upon the best methods under which we can live in amity and peace with the nations of the earth, and how far we can go with our contribution

to such an end. Librarians from every part of the country report that never has there been such a demand for books dealing with our foreign relations or works on previous peace efforts, and for the records of peace congresses. Booksellers are selling more books dealing with the European situation than ever before. The entire interest of the American people in foreign questions has been quickened all along the line. The editors of leading American newspapers have sent letters to me from individual subscribers and from clubs and organizations, asking that more space be given to foreign news in their papers, in each case crediting their larger interest in the affairs of the world to The American Peace Award. There is the distinct beginning of an international mind.

VII

"But surely," say many, "you expect some more definite result, too, do you not?"

No, not expect. I *expect* nothing.

But I have hopes—very deep hopes.

At the same time, I am perfectly free to say that I am so well satisfied with what has been accomplished that, if it were decreed that The American Peace Award should go no further to an ultimate result, I should still feel more then repaid for the effort and its accomplishments.

But it does not appear as if it were so decreed.

One of the high officials in the United States Government recently wrote me in a letter: "The Award started something that nothing can now stop. The interest is too widespread: the idea has rooted too securely

and gone too deeply. The Award has planted a seed from which something must come."

I think he is right.

VIII

The American people may not know exactly where they are going, but they are distinctly and decidedly on their way. No one who has had his finger on the public pulse, and felt its beats through the progress of the Award, can doubt this statement for a moment. The people are determined that as they have registered their views they shall now be crystallized into definable terms on this question of world peace, and that they shall be placed before the world. This note of determination is struck in almost every letter. "This must now be carried through" is a common phrase in hundreds of letters; and it is said with a crispness that leaves no doubt of the determination behind it.

The ultimate result may not be the adoption of the winning plan in The American Peace Award. It may well be one of the other plans given in this book. That does not matter. That is a detail.

IX

So:

I hope for—
Not a miracle.
Not a universal solvent.
Merely a beginning.

Wisely has Goethe said, "We are not born to solve the problems of the world, but to find out where a prob-

lem begins (do our part), and then keep within the limits of our grasp."

The people of the United States stand before the world today without any plan of action so far as their relations with the rest of the world are concerned. There is on record no crystallized national opinion. The views of special groups have lost their force. Besides, that is not what the world asks from the American people. It asks not a foreign policy born of an administration, of a group, or of a political party. It wants an expression of the national will, of the national belief of the people of the United States. The world knows well that without such national support the most carefully worded treaty or agreement becomes a worthless scrap of paper. But, on the other hand, it is also a fact that world peace can be attained if enough people think of it, and desire it, and say they desire it. The public conscience is derived from personal conscience: the unit becomes the mass.

X

The underlying impulse of the American people toward some form of practical international cooperation is strong and irresistible. Partisan politics have beclouded the issue; the absence of a straight and unbiased channel of expression has made universal expression impossible. But the moral interest and the moral force of the people are awakened. The American people have had time to think, and they have thought, and the national voice is being heard over the heads of those who have, up to this time, talked to no purpose.

XI

No state of world peace can be brought out by a single step. As Elihu Root has well said, its consummation can come about only through a series of successive steps, each step a little farther toward the goal.

The American Peace Award is a first step.

It is only a beginning.

EDWARD W. BOK.

February, 1924.

TABLE OF CONTENTS

PAGE

An Introduction 1
ESTHER EVERETT LAPE

I. Suggestions for Non-Political Association of the Nations—Cooperation Through the Economic Conference and International Trade Commission 49
EDWIN BORCHARD

II. World Court Dissociated from the League. A Universal Treaty Based on "Treaties for the Advancement of Peace" Already Concluded 65
CHRISTIAN A. HERTER

III. Conferences—A Flexible Method Following American Precedents 79
WILLIAM S. CULBERTSON

IV. World Court and Control of World Trade Through the Waterways to the High Seas 115
GUTZON BORGLUM

V. The Organization of Scientists for Peace . 127
SAMUEL PETER WILSON

VI. To Outlaw War: A Declaration of Interdependence by the United States 149
M. CAREY THOMAS

VII. The United States as an Associate Member of the League of Nations 171
SIMEON STRUNSKY

VIII. International Conference on Reduction of Armament and Ten Other Matters . . . 187
CHARLES W. ELIOT

IX. Organization of International Trade in Raw Materials—And Other Proposals . 209
ERNEST BRUNCKEN

CONTENTS

		PAGE
X.	PREPAREDNESS FOR PEACE—AN AMERICAN ADAPTATION, ON THE VOLUNTEER PRINCIPLE, OF THE SWISS CITIZEN ARMY . . . . . JOHN McAULEY PALMER	231
XI.	BUREAU OF CONCILIATION IN THE DEPARTMENT OF STATE AND OTHER PROPOSALS . . . DAVID STARR JORDAN	255
XII.	COOPERATION THROUGH EXISTING MACHINERY OF THE LEAGUE OF NATIONS . . . . . MANLEY O. HUDSON	275
XIII.	AN EQUAL ASSOCIATION OF NATIONS—THE PLAN OF THE FRAMERS OF THE CONSTITUTION . . J. WHITLA STINSON	299
XIV.	THE LAW OF FLOW AS THE DETERMINING FACTOR IN WAR AND PEACE . . . . . DAVID ATKINS	317
XV.	AN INTERNATIONAL CRIMINAL COURT TO TRY THE MAKERS OF WAR . . . . . THEODORE STANFIELD	341
XVI.	FREE TRADE AS THE BASIS OF INTERNATIONAL COOPERATION . . . . . ERNEST JOSEPH HOWE	361
XVII.	THE WILL TO PEACE AS THE SINE QUA NON OF INTERNATIONAL COOPERATION . . . . . RT. REV. CHARLES H. BRENT	381
XVIII.	NATIONAL COURTS FOR INTERNATIONAL DISPUTES . . . . . NATHAN ISAACS	403
XIX.	EDUCATION FOR PEACE . . . . . PAUL H. ARTHUR	423
XX.	THE WINNING PLAN—PROGRESSIVE COOPERATION WITH THE ORGANIZED WORLD, SUSTAINED BY THE MORAL FORCE OF PUBLIC OPINION AND BY DEVELOPING LAW . . . . . CHARLES H. LEVERMORE	445
	INDEX	461

WAYS TO PEACE

AN INTRODUCTION

BY ESTHER EVERETT LAPE

WAYS TO PEACE

I

While the American Peace Award did not turn up a new, meteoric social document, a brilliant, original restatement of the laws of nature and of nations in terms of the world as it is at this moment, feeling toward a firmer social base, it did result in some hundreds of able and consistent presentations of various political and economic steps toward world peace. It resulted further, through hundreds of papers of uneven quality, in a notable grist of ideas and perceptions, flashes of creative insight.

The competition called for some practical next step which the United States could take in order to cooperate with other nations for the prevention of war. If a brilliantly new social document had appeared it might well have failed to measure up to the definition of a "practicable plan." The requirement of "practicability" may have led some writers in the direction of tactics, opportunism, and practical statesmanship. But there remains to be answered the eternal question whether it is the tactician or the philosopher and profound student of first causes who is more likely to devise the simplest and the best next step. After all, the paths of history are thickly strewn with the bodies of dead opportunists. In any crisis, the philosopher has a chance.

The opportunist and the student of first causes are both well represented among the competitors. And probably neither $100,000 nor the hope of producing a practicable plan had much to do with the presence of the best of *either* of these two groups in the competition. The best of the

opportunists want action and are willing to make many compromises in order to get it. They believe that waiting at all can only mean further tragedy. The best of the philosophers are simply souls bearing testimony to the faith that is in them. They contribute their views as an obligation of the mind and the spirit. A few of them attach a "plan" of some kind to their diagnoses of the ills and hopes of the world today. Many deign no practicable plan whatever. They shed their light for what it is worth, to whom it may concern. They scorn any effort to draw together the remote worlds of social philosophy and political expediency. They offer their contributions on the theory that if haply an idea or perception of theirs lights for even a moment a troubled sea, well and good.

Of the 22,165 plans, some thousands represent the political and social commonplaces, set forth respectably, literately, and barrenly. Thousands of others are papers which in point of practicability or intellectual content are generally ineligible, yet—in their indication of popular feeling—not insignificant. The others are the papers of sustained ability or individual approach.

Some swift reference to the least eligible and least profound group is not at all out of place in an analysis of the "ideas" turned up in the competition. Every reader of this introduction who is used to receiving manuscripts of any type will know without being told how many are poems, prayers, songs for "community peace sings," emblems, flags of peace, mottoes and designs for buttons and schemes for their use, visions revealed by the Lord the night before and (always) exclusive with the recipient. They will know how many are diatribes against the makers of war—politicians, capitalists, munition manufacturers.

They will know how many call upon a fourth dimensional world, thought waves, and transmission of spirit as the only vehicle upon which the peace of the world can really ride. They will know how "practicable" are the plans for getting the spirit into peaceful activities: there should be a committee of one thousand in every nation to think peace (and do nothing else—a kind of sacred order) until the thought waves, meeting, encircle the earth. There is to be an international force of expert hypnotists to drive warlike thoughts first from the rulers of the earth (these being the real instigators of war) and then, this done, from the rank and file of the rest of us. The Golden Rule, "God is love," universal conscription, a popular referendum on war—those voting "yes" to go into the front lines—these undeveloped phrases are the "plans" of these ineligible but vehement thousands.

They do not seem to lend themselves to serious analysis. But this should be said of them: by and large they have the vitality that comes from conviction and from a recently realized experience. Often in reading the most absurd from the point of practicability, one gets a sense of genuineness in the motive. Many—perhaps most—of these communications seem less the work of the universal ready letter writers that are always with us, than the efforts of people not knowing what they *think*—and indeed not accustomed to thinking—but very sure of what they *feel!* During the years just past the imagination of the people of this country was brushed by the horrors of war. After all, there is hardly a community that has not felt the toll of war or gained just a flashing insight into its tragedy. There is political apathy in this country, it is true; there is indifference to political doctrines on matters

international. But there is a profound popular realization that there must be a better way than war and that we must help to find it. In the most simple minded of the "plans," behind the banalities of the actual proposals there is therefore the stirring of real feeling.

And in a way there is more than that. Behind the ineligible plans are some of the same convictions frequently found in the other group: a clear assumption that no political machinery will avail to prevent war; a feeling that the causes of war in history have generally been undeclared or not truly declared; a suspicion that nations do not drift inevitably into war and that it may be possible to fix responsibility for war upon leaders or officers or else upon states,—*somebody* is to blame; more than a suspicion that trade and commerce have much to do with wars; a very firm conviction that if nobody profits out of war, war will be less likely; a clear feeling that the people of any country are likely to think more sanely on the question of war and peace than their rulers, and that those that go forth to battle therefore ought most certainly to vote directly on whether or not the battle is to be fought. The popular referendum on war (a proposal by no means, however, confined to the ineligible group) appears numerously. Its companions, "universal conscription" and "take the profit out of war" are as basic in the thoughtful and practicable plans as in the ineligible group. The way the writers really differ is in their estimate of the practicability of the object to be achieved and the steps necessary to realize them, or perhaps in whether they think any steps are necessary! There is an imperative distinction to be made of course—in both groups—between the militant and crusading and class conscious writers who see

one division of society consciously and criminally "putting over" wars on the great mass, and those who feel that, without conscious or class-conscious purpose, we have somehow all slipped a cog in civilization in so long allowing to war a respectable legal status. This group looks to "the common people" to correct this condition, not as the wronged masses casting off their chains, but as the remoter, saner group less tangled in statecraft. Through the plans as a whole "universal conscription" and "take the profit out of war" represent not merely catch phrases but a popular conviction—or realization.

While this statement, therefore, deals—henceforth—with the approximately 8000 more ordered and orderly plans, the distinction between the two groups should not be too sweeping: A number of the plans, conventionally orderly in form and content, offer superficially presentable political or economic proposals with an astounding disregard of the history of social forces and the motiving of the human soul, whether in the individual or in the mass. And hundreds of plans that had no other value do have here and there a touch of imagination, of rare human insight, of simple wisdom, which transcends the sustained commonplaces of many more impressive entries.

The writers of the plans represent any random cross section of the American people: You will find in the list side by side a professor of international law, a Pullman conductor from Kansas City, a Congressman, the head of a laundry, a minister in Missouri, a shop keeper in Indianapolis, a housewife, a state judge, a rural postmaster, a world war veteran. The authors of the more profoundly worked out plans do, however, show a significant number in each of the following groups: judges; lawyers; war cor-

respondents and journalists generally; men who are or have at some time been attached to the Department of State, the diplomatic or consular service or some Federal department; professors in large or small universities and law schools; army men—notably judge advocates; a surprising number of doctors; businessmen, importers, and bankers obviously with some recent experience in European travel; and scientists, especially chemists and engineers.

The better plans are naturally simple, less remarkable often for documentary weight than for assimilative power. The purely academic essay with careful documentation is in the minority. It is of course true that those writers who are familiar with previous efforts at international cooperation, who have made some study of treaties, attempts to arrive at international law, and allied subjects, are able to add to their presentation a luminous and reflective quality. Not a few, however, seem to be less aided than hampered by their effort to take history into account. A curious lack of imagination and of awareness marks certain writers who see the problem of international cooperation as one to be solved only by the aid of historical analogies. An equal lack of awareness, however, marks many of the writers who regard the situation as utterly new in history and who set themselves only the task of outlining a vision of the world as it has never been but may yet be.

II

A good many writers are confused by a very fundamental question: They have not really decided whether they think war is preventable. Some simply assume that

it is preventable and go cheerfully on from that point. But the fact that they evade the question rather than meet it often confuses their reasoning and confounds their proposals. A disturbing suspicion that war may be a kind of biologic necessity, a condition of human nature, often interferes with the logic of their statecraft. And even while they "outlaw" it or dispose of it as an obsolete method of settling international disputes, they sometimes recall with dismay how original sin, outlawed and obsolete in the individual by every realization of philosophy and religion, still persists.

Curious trade winds and cross currents of unanswered questions, challenging the whole underpinning, puzzle many; and in the very act of adding another perfectly reputable block to his structure an author obviously sometimes stops to think: whether nationalism and international cooperation are terms eternally opposed; whether, if war be not a biologic necessity among men as a species, it is, so to speak, a biologic necessity for nations; whether, until and unless the whole world be born anew, there is an essential and permanent opposition between the individual growth of a nation as such and the furthering of international cooperation; whether the approach to peace is chiefly a matter of developing a will to peace in the majority of individual men and women or whether it is more largely a problem of finding the right policy and tactics, political and economic, to adjust the relations of men; whether, in short, the thing we are seeking is a white dream of statecraft or rather the rebirth of the individual soul of man into a new social expression.

III

With all their apparent distinctions and differences, the plans are far more alike than their authors dream. They rest, all told, upon only a few conceptions. They fall roughly into a threefold classification,—political, economic, educational. But the distinction between these, especially between the political and economic, is often a false one, a case of difference in emphasis. As the sounder writers in the economic group realize, the economic program they propose could be put into effect only by governmental action or sanction, becoming thereby "political." A crusading desire to abhor forever all that is political weakens the force of many attempts to estimate the importance of the economic causes of war and many otherwise clear and fine perceptions of the economic factors in both war and peace.

The political plans, in spite of the variety of organization suggested, fall into two large groups—those bent on enforcing peace, and those imbued with the necessity of first developing, if not creating, a will toward peace. The first group proceeds on the premise that the problem of international peace is the problem of finding or developing a successful and sound type of coercion, a large enough and sufficiently intimidating and sufficiently generally recognized *power*, be it the cumulative power of law (seen rather as force than as recorded agreement) or the power of military or of economic force—or all three. The second group takes the other line entirely, and attempts to prove that the problem of ending war and of finding a successful relation among nations leads directly away from force and resides in the will to peace and the will to cooperate.

Their real reliance is upon creating a public opinion and a moral judgment which shall be its own sanction and its own executor. A few carry the line of argument so far as to distrust any mechanism for cooperation whatever. They would indeed rather attack the problem of re-creating the mind and attitude of man completely than imply that the will to peace can be arrived at in any less fundamental way. At this point the political plans merge with the educational.

The force or power group, for lack of a better term, includes a wide range of actual proposals: Those that set up a United States of the World, or variously named world federations which usually turn out to be powerful bureaucracies or superstates assuming mighty (and undefined) powers; those that see the League or a League of Nations as a superstate (as opposed to the numerous group which sees the League grow in effectiveness only as it sheds the coercive features expressed or implied in its original formation); those that advocate compulsory arbitration and concern themselves not at all as to how people and nations are to be made willing to submit to arbitration; those that depend upon courts merely, conceiving of them rather as police magistracies of the world than as judicial bodies cooperatively reaching agreements. Compulsory jurisdiction is often assumed but rarely arranged for. Many writers show a curiously flexible conception of the functions of courts, and imply in them vast and undefined powers. This is true whether the basis used is the Permanent Court of International Justice, a new world court on much the same general foundation, the Hague Court in some extended form, or some new form of court based upon other precedents and often strongly

suggesting the Federal Court system of the United States, with additional emphasis upon the power of the Supreme Court. Obviously the force group also includes proposals for a powerful international force, land, sea, and aerial, which in some way or other is to remain permanently free from manipulation through national sympathies. Sometimes this army is to be attached to an association of nations; sometimes it is to be used to enforce the decrees of the Court, and sometimes it is simply to be a thing in itself, a kind of detached force always able to secure agreement by intimidation and always there to bring into line any refractory nation. It is sometimes the most pacifically inclined writers, those who inveigh most positively against national armies and navies, who revert thus to an international expression of force in conjuring up their visions of a peaceful world. This is also the group that conjures the most complete, formidable, and merciless schedule of penalties for offending nations—those that will not be peaceful.

The second group of political plans, which depends upon bringing about the will to peace, rather than upon assuming or creating proper machinery for law or force, also often includes a World Court, but as a far more tentative agent, less as a magisterial force with sanctions than as a kind of cumulative repository of international agreements duly formulated, less as an international force than as a process in the formation of an international public opinion and moral judgment. Aside from such a court the main proposals of the second group may be summed up in one word, *conferences*—conferences *ad hoc* (to negotiate arbitration treaties, agreements as to disarmament and many other matters), periodic conferences, or the

permanent machinery of conference in a league or association of nations as a deliberative body.

IV

The superstate plans, with a few honorable exceptions, are glib. They are mentioned first in the force group only because they are numerous, and with no implication that they are of a quality comparable to that shown, for instance, in the best court plans. Most of the superstate plans are long and detailed, superficially impressive. They proceed article by article, section by section. They have more machinery than philosophy. They are specific in the wrong places. Tennyson provoked a good many of them in the first instance by his reference to "the Parliament of man, the Federation of the World." The Constitution of the United States, memorized in civic lessons, is responsible for a good many of the others. Many of the world constitutions produced slavishly follow our own, amendments and all, with acknowledgments also, in phrasing, to the Declaration of Independence. The writers have followed the simple line of applying what they know to what they do not know. While some of the United States of the World advocates stop temperately with a Federal form of government, the animating impulse in many others is to get rid of international difficulties by "internationalizing" everything, notably language, religion, currency. If certain European nations, they argue, would only speak English and if here in this country we would only use the metric system, two fundamental causes of war would be abolished. They rest upon the theory that since wars of any kind are due to *differences* the obvious remedy is a pooling of resources, a gen-

eral standardization and socialization. They cheerfully propose the abolition of boundaries and of everything that suggests distinction. One hardy soul even went so far as to propose that as a means of truly assuring peace, in the evolution of nature and of men, sex itself be obliterated.

This takes us far into the absurd, and it would not be just to dispose of all the superstate "plans" under that head. Mechanistic and superficial, concerned with detail, built out of the blue, chimerical, almost all of them certainly are. Mention should be made here, however, of the point of view of a not small number of writers who while not now proposing a Federation of the World, do believe that in the course of ages, perhaps aeons, the world is tending toward it, and in it alone will a peaceful organization of the earth be possible. Some writers are obviously under the tyrannical influence of historical analogy. They think the whole world is now about to go through a period analogous to the period of our country's history under the Articles of Confederation. We shall soon proceed, they believe, to a state of world organization analogous to our state under the Federal Constitution, and from that grace on to further glory of union. One more thoughtful writer, whose immediate proposal is modest in its practicability, takes pains to set forth his belief in a superstate as the real solution and commends the thoughtfulness of his position—not (as might superficially be expected) by proposing progressive steps now toward a cumulative federated force—but by declaring for the present against all such attempts and urging only attempts at voluntary association and conference for the development of good will. He thinks that the development which would make a superstate or international union feasible must be

a growth from the inside from the influence of the natural forces of trade, travel, intercourse, and exchange of ideas. At present the individualism of the powers is in the ascendency. Without subscribing to either his logic or his conclusions, one can at least note that he is one of the blessed few in any group who seem to face clearly the fact that the stage of international cooperation in which we now find ourselves is an exceedingly elementary one. Too many writers were contemplating consummations rather than one "practicable" step, and were lured by blue prints of an ambitious structure, on foundations as yet unestablished.

Some of the federationist writers confine their canvas to Europe. In the League controversy in this country, especially of late, we are all familiar with the position that "the League is a *good thing for Europe*," uttered with every implication that Europe has much to work out that does not concern us. Something of the same background appears among the advocates of a United States of Europe. Conditions in Europe have produced a peculiarly localistic type of mind, it is maintained. "Europe has not been able to produce a European mind and a European citizenship. Anything short of the effort to produce a European mind is merely to scratch at the surface of our world problem." Let Europe first arrive at a basis for *European* cooperation, become as we are, they maintain; until that is achieved, there can be no common denominator for world cooperation. This point of view disposes briefly of the contention that "the peace of the world is the problem of the people of the United States" and lets America happily and indefinitely out of the picture. It puts the burden of proof upon Europe.

V

In the World Court papers, as has been indicated, some distinction is to be made (though the writers often slide over it) between those that regard a Court as an expression of law and power and those that see it chiefly as the machinery for recording agreement and building up a kind of common law of nations. We are speaking of both types here, and indeed they cannot easily be separated, for the distinction is often to be made by the reader and did not exist for the writer. Many well written Court papers have not defined very clearly at the outset their own ideas as to the functions of a world court. The less thoughtful of the Court papers are rather disturbing in the loose and large and flexible powers they imply, powers assumed rather than derived from the consent of the governed.

Some of the Court writers, eager to get away from the political unpopularity of the League of Nations, yet at heart advocates of the theory of conference which it illustrates, attempt to extend the Court unduly, covertly adding to it, or implying in it, a kind of deliberative, legislative or conference function. The World Courts outlined do indeed range all the way from the most authoritative, arbitrary and overwhelmingly powerful bodies to the loosest kind of discussional body which, in a manner of speaking, passes Chautauqua circle resolutions in the interest of the welfare of all mankind.

One of the most obvious creative possibilities opened up in this competition was the chance to formulate a true World Court, based upon the Permanent Court of International Justice, or entirely dissociated from it, or based

upon the Hague Court, or built *de novo*. The selection of plans here published includes some thoughtful dealing with the World Court. There are several other able plans dissociating the Court from the League, and there are several able papers building an entirely new court. But the number of Court plans in which really creative thinking has been done is not large.

Hundreds of intelligently presented papers offer the Permanent Court with the Hughes "reservations", with practically no original contribution in either proposal or argument. There is something invalidating—and dreary —in the fact that in a number of Court—and other —plans, the degree of political opportunism outweighs the degree of creative thinking. The artificiality of a number of the Court plans is obviously due to the political fight on the League and the suspicion the Permanent Court comes under on account of its controversial associations. Too many Court advocates are more intent on dissociating the Court from the League than they are in contemplating what will genuinely make a World Court more effective. The last is a fertile field for thinkers on international matters, but not a great many wandered into it.

Some writers revert to the Hague Court, endeavoring to extend and revise it as the foundation for an effective World Court, but no writer so endeavoring raised a very significant structure. Of the plans proposing an entirely new Court, a few are sustained. Rather generally, however, they fail either to prove the superior value of the new mechanism over the old or to indicate how, in the present circumstances, it could be started. Most of them are "new" chiefly in the fact that they ignore what al-

ready exists and, with decent decorum, avoid naming unmentionable experiments.

The lack of extensive and accurate information on both the Hague Court and the Permanent Court of International Justice accounts for the evasions and the false distinctions and the confusion in a good many of the Court papers.

VI

It is rather surprising how few of the Court papers face clearly either the question of compulsory submission of questions to the Court, or the question of the Court's sanctions and power to enforce its decrees. It is refreshing, however, to find a few papers dealing squarely with the problem of compulsory jurisdiction and neither assuming or evading it. One intelligent paper proposes compulsory submission of questions "with reciprocity" on the part of the nations. Many made the natural suggestion that the United States should subscribe to compulsory jurisdiction so soon as England or one or several of the large powers should do likewise. Many papers not only on the Court but on other proposals subscribed to the theory that England and the United States jointly could bring about the general acceptance of whatever international policy they set out to get accepted.

There is also little thoroughgoing analysis of the kind of questions to be brought before a world court. The safe classification of "justiciable" and "non-justiciable" questions is relied upon rather than investigated. The respectable traditions with which this classification has so long been associated are seldom challenged. The definition of questions of "national honor" is treated with similar cau-

tion. The collection of war producing problems that can be tucked under cover of "questions of national honor" has never been duly sorted or adequately analyzed. A few daring souls, having once begun to think, suddenly pull themselves up, with a realization that they have reached a dangerous sign post. In this field the sacred phrases are more easily accepted than defined. One looked in vain for masterly re-definitions on these points—as on the moot point of what is aggressive and what is defensive war.

The "codification of international law" is recommended in thousands of papers, but the method of accomplishing the codification is developed in comparatively few. One gets a disturbing impression that some of the writers subscribe to the fallacy that by "codifying" international law we thereby achieve it. Some seem to feel that a World Court will take care of the problem by building up a body of decisions as fast as it can soundly be built up,—a kind of judge-made or common law of nations. Many of the very best Court plans disown such a position entirely; some of them would have a Third Hague Conference to develop and formulate international law. Some would provide for recurrent conferences for this purpose. And some, notably the winning plan, make the point that a task like the codification of international law needs to be done more firmly and conclusively than the loose organization and procedure of "conferences" of any kind permit; the winning plan suggests that a commission of jurists be employed by the League of Nations to begin collaboration for the revision and development of international law . . . "this commission would be directed to formulate anew existing rules of the law of nations, to reconcile divergent

opinions, to consider points hitherto inadequately provided for but vital to the maintenance of international justice, and in general to define the social rights and duties of States. The recommendations of the commission would be presented from time to time, in proper form for consideration, to the Assembly as to a recommending if not a lawmaking body."

A number of Court papers, even those that carefully refrain from actually recommending for the present *any* degree of cooperation with the League, express or imply a fundamental belief that behind and sustaining any Court there must be a conference body, an association of nations, producing the willingness to cooperate of which indeed the Court is a more advanced expression. A Court, in other words, has merely an occasional and unstable status unless it is related not merely to the grounds of dispute, the overt acts needing adjustment, but also to essential mutual desire to adjudicate which no Court can create—but without which it cannot adjudicate very long!

VII

Two interesting and individual papers dealing with the prevention of war through law from less usual angles are published here. One of these, by Mr. Theodore Stanfield, formulates the needs of an international criminal law to try the individuals responsible for aggressive war. The other, by Dr. Nathan Isaacs of Cambridge, takes the position that the United States can make its best contribution to peace by abolishing the doctrine that a sovereign state cannot be sued in its own or any other courts of justice. The plan would involve the abandonment of the plea of non-suability by the United States in foreign courts. In

other words, it would use our own and other national courts for settling international disagreements.

VIII

The use of an international police, in the shape of an international army, navy, and air force, and of the economic boycott occurs in many forms in the force plans. Sometimes they are used to enforce the decrees of a court, sometimes in connection with the League or a league of nations. Economic non-intercourse is often used also as a guarantee of compulsory arbitration, or as a condition of international treaty or agreement to "outlaw" war. A very considerable number of authors assume the existence of some undefined international law, and set themselves only the task of devising means to enforce it. In the name of peace they conjure drastic forces and penalties. The punishment of nations for non-agreement takes hold of their imagination strongly. And they center all their real hopes for peace in an intimidating and amazingly unreal international army and navy which is to avoid all nationalistic influence or domination and which in some mysterious way is to be free from all the evils which the writers think national armies produce. Sometimes the force proposed is temperate in size, not comparable with any large national army at the present time, and maintained in these moderate dimensions by agreement among the nations. But sometimes the international army is to be smothering in its size and devastating in its prestige. It would hardly need to get into action; it would be enough for it "but to be." Some of the writers spend a good deal of time in housing this international police force—in the Barbadoes, the Madeira Islands, the Virgin Islands, the

Azores. One writer, having established to his own satisfaction the theory that the proper home for the international police should be an island in such and such latitude and longitude, deplores the fact that there is no island at just that point.

While a limited number of statesmanlike papers both on the Court and on the League have sane proposals for the formation and use of international police, the economic boycott and non-intercourse is a far more generally suggested means of enforcement. Not many papers go deeply into the difficulties in the way of securing the international agreements that will make a policy of non-intercourse possible. The economic boycott is too often invoked with a large gesture, with little apparent realization of the fact that it could, in effect, be vastly more cruel than an invading army and could, as a by-product of its operation, also injure the population of a neutral country. It is true that the possibilities of economic forces as "stabilizers" of world peace have been barely explored; it is the more regrettable that so many otherwise thoughtful papers assume their possibilities rather than prove them. But it is, perhaps, a promising sign that here, as in the economic plans to be described later, is evidence of increasing recognition of the due relation of politics and economics in the international as in the national field.

IX

The proposals that depend upon establishing an effective public opinion and "moral judgment" rather than courts or established law or force, take many forms—but the philosophy upon which they rest is the same. It is the need for discussion—the Conference in some manifes-

tation. The conferences are of three types, occasional, periodic, and permanent. The conferences *ad hoc* are to fit the specific problem or the temper of the times. Many propose immediate conferences to negotiate arbitration treaties, to secure agreement to "outlaw" war, to deal with the reduction of armament, and with economic questions (the importance of the reparations question during the past year has done more than any other one thing to center public opinion upon the need for an economic conference or economic adjustment). A large number of papers propose what they refer to as a "third Hague Conference," obviously, however, with the first and second Hague conferences not very clearly in mind. Though some of these have no particular agenda to propose, they follow loosely the theory that the Hague Conferences established some principle in international relations, that the Washington Conference on the reduction of armaments was considered generally successful, and that the conference method committing nobody to anything in particular, not necessarily having any result at all, and yet opening a way for a discussion of momentous questions and for the achievement of possible agreement upon some statement, represents a policy to which nobody could reasonably object. A good many plan makers lay hold of the conference as the material nearest to hand—a proposal with a kindly uncommitting and uncontroversial face. Probably in three fourths of the whole 22,165 papers there occurs at some point the line "The President of the United States shall call a conference." In many instances the real content stops there. It is an obvious plan to get a plan.

Perhaps a "third Hague Conference," called by the

United States, might be very serviceable—rather in clarifying issues within our own borders than in giving us any new leadership before the world in matters of international policy. It might be an aid in our imperative present need—which is, to extend our information as to what are the factors to be considered in the formulation of our foreign policy. We do not know how far the ties that bind us to other countries are commercial and financial merely, and how far they are racial and spiritual. Yet, with our huge foreign born population, we could not possibly even guide our own destiny until we do have some clear sensing of these things. There is as yet no general awareness of even the factors in the problem of our international relations, much less the solution. There is, in other words, neither in Congress nor throughout the country, the kind of information and understanding that makes it possible to consider *any* proposal on this subject on its merits. It would be interesting to know what valuation a third Hague Conference would make of the Permanent Court of International Justice and of the League of Nations. Whatever its agenda, it would not be likely to avoid them.

X

The second group of conference papers, carrying the idea a step further, suggests *periodic* conferences. It recognizes that conferences involve a great deal of work and a great deal of expense and that no result of any kind is insured; that in conferences there is danger that people will merely meet as at a convention, and deal sweepingly with large matters; that experts will be put to work perhaps for a time on subjects requiring profound considera-

tion, but that adequate arrangement may not be made for considering and adopting their recommendations. This difficulty, they suggest, can be offset by having one conference look toward a later one. Thus we get some sense of continuity, without involvement on the part of the nations concerned. The periodic conference group, although the authors do not always say so, seems to represent an "easy steps for little feet" approach to a more permanent and continuous type of cooperation represented in a league or association of nations.

XI

Considering the fact that the League of Nations is the one form of international cooperation upon which the American people have had a wide chance to be educated—through channels however disturbed—it is not surprising that there is a large group urging the machinery of permanent conference in either the League or a League of Nations. There are many able League plans in the sense that they are creditable presentations of the historical pro-League position, with well supported argument. But taken by and large the League plans connote drearily our whole failure either to approve or disapprove the League idea *upon its merits*. Both the pro-League and the anti-League plans, too many of them, convey consciously or unconsciously the old animus, the color of purely political tactics.

Few plans urge the League without reservations. The reservations, outlined in great detail, are chiefly the familiar ones. A number of writers go through nothing less than contortions in an effort to retain the League, but make it *look* like something else. They would change

the name. They would re-write the Covenant with petty changes of phrasing. There are fewer creative commentaries on the League Covenant than one might expect.

Here certainly was an opportunity for American statesmen, professional and amateur, interested in the possibility of a continuous association of nations, to present a creative interpretation of the kind of association of nations, if any, which the United States would like to join, or the kind of reorganization of the League which, in the generous course of the years, we should like to see come to pass. But most of the League papers, often very able, in a certain preoccupation with tactics rather than substance, go over already familiar ground.

A few discern that the League's value is much more in what it may be than what it is, depart refreshingly from the tone of the committed advocate or propagandist, and contemplate the League's future, setting forth with sureness, but without arrogance, what the United States' ideal of a League of Nations might well be: Whatever other components there may be in this constructive contribution, there are, almost invariably, the principle that sovereignty resides in the independent nations associating; that no government may be refused association; and that the principle of cooperation in voluntary association is the sine qua non in any other or further international agreement or international force.

It is an odd fact that opposition to the League, though present in many papers and fundamental in a number of them, is very inadequately set forth. The opposition is confined to four classes:

First, comes a very small, yes a tiny, group of those that believe the United States must keep out of Europe and

make its contribution to world peace merely through the force of precept and example—by contributing to a war-torn world the astoundingly impressive picture of a great and prosperous nation minding its own business and getting more prosperous.

Secondly, there are those that genuinely and thoughtfully object to the League or a League as containing inevitable implications of a superstate,—and this, whether articles X and XVI are present or absent.

Thirdly, there are those who distrust the League because of its connection with the Treaty of Versailles. They believe it was born in a "miasma of intrigue," that it represents a mediæval tradition, that it is an alliance rather than an association, perpetuating the balance of power idea, out of which the peace of the world cannot be born. There are alert, earnest, and convinced writers, who believe that until and unless the Treaty of Versailles can be rewritten, and the League, in any case, entirely dissociated from it, the League of Nations belongs to the tragic past rather than to the hopeful future.

Fourth, there is the very large group of political opportunists, eternally and often tiresomely obsessed with the need of making the League both palatable and respectable in many quarters—"tiresomely" not in scorn of the spirit that takes into account oppositions that do indeed exist, but in regret that, preoccupied with so doing, the writers often lose their hold on their own conviction, and their power to contribute to a real understanding of the League on its merits. Certainly it is only the very brave and the creatively able who can afford to be cautious! More than a few plan writers say at some point, "I believe the real need is for the United States to enter the League of Na-

tions"—whereupon they go on to propose something quite different! They do not feel equal to fighting the opposition, or they honestly doubt the wisdom of so doing. They believe that the state of the public mind, however falsely based, as to the League, engenders fear and distrust and virtually inhibits the necessary political action to secure cooperation with it.

A number of League advocates show political awareness of a better balanced and more distinguished nature. Yielding not at all in their conviction as to the ultimate "practicability" of the League, they will compromise frankly, and to any necessary extent as to procedure. They are not bitter enders. They would just as lief have us be an associate member of the League (with or without a vote—some specify one way, some the other) or merely cooperate with the League with just about any reservations anybody in the Senate or outside it wants to offer. A number of those who take this line feel, apparently, that once having begun to cooperate, the United States might conceivably become more interested in cooperating than in making reservations. It does so happen in human experience. And if haply we *didn't* like cooperation, we could always go home with honor. The idea has all the attraction of a trial marriage. If we cannot *think* it out, say these advocates, let us at least experiment. There is much to be said for the idea that what the United States seems to need, in making up its mind as to its international relations, is a little empirical knowledge. Our other kind, on this subject, has worn very thin.

Most of the *new* associations of nations outlined are not distinctive. They lean heavily upon the League Covenant, and though honestly intended, are, for the most part, evasions.

XII

"Regional league" proposals are not infrequent. Most of these papers are based on the assumption that a real league of nations is impracticable now and perhaps always may be, but that nations in the same general region will easily make common cause. The more usual recommendation is that there be a Pan American League, a Pan European League (substantially the present League of Nations) and a Pan Pacific League. Some writers jump over the difficulties of arbitrary geographical alignment by permitting nations which, in a geographic sense, are equivocally situated to be members of two regional leagues. Sometimes the regional leagues are to have courts with an international court of appeal. Some of the regional league advocates seem to feel that the trouble with the League of Nations is that membership in it was made contingent on the acceptance of a certain objective and program. Granting that, it would nevertheless be hard to see why a *regional* league is the alternative. There are some thoughtful regional league papers. But too many of the regional writers seem to be simply hunting a way out, a "dee-vice," and also to be subscribing to the theory that neighbors do not fight. They forget the last war. However that may be, the idea of continental grouping and what a number of writers rather affectionately call a Monroe Doctrine of the World, whatever that may mean, has a wide following.

XIII

One not very large group of plans depends upon arbitration. These are often anti-League and anti-Court. They set out to show what the United States can do alone. They start from the point that you neither can nor should

get nations into any form of continuous agreement. You can, however, develop a kind of international etiquette and technique, resulting—oh, very slowly—in some agreements. Some able papers develop the possibility of extending the excellent principle of the Bryan treaties and lessening the likelihood of war thereby. The principle is a good one—but it is dangerous to claim too much for it. Knowledge of human nature and of nations does not characterize all the advocates of the "cooling off" period. People and nations do not automatically cool off just because they have promised to take time to do so! Let us give the opportunity by all means—but keep the other contingent also in mind. Although the arbitration group of plans is done almost generally by persons of some information and intelligence, many of them evade the fundamental problem as to how nations are to be made *willing to arbitrate*—and as to what method is to be substituted if they don't. Though dealing with the subject matter with an air of temperateness and information, these plans often rest upon an evasion. They are frequently less substantial than they look.

XIV

Most of the plans want to "outlaw" war, and perhaps one third of the plans use the phrase. Some of the writers are merely handling—and man-handling—a popular slogan, but others go into the problem of outlawing war, making aggressive war a "crime," with a full realization of all the difficult steps involved. While the wide use of the phrase over the country has done good in calling attention to the need of a right-about-face in the national and popular attitude toward war as a legal and respectable

method of settling international disputes, it has been harmful so far as it has implied that the job of outlawing war can be brought about by some swift shortcut. International agreements *by whatever method they are brought about* are not swiftly consummated—and would not hold if they were. The rhetorical finality of the phrase "outlawing war" is intriguing, and some of those who seize upon it despise any method of bringing it about that is less sweeping than the phrase itself. The arriving at, and the execution of, a general international agreement to outlaw war involves at least as much machinery as is implied in the League and Court together—nay more, for the economic non-intercourse to be swiftly and relentlessly applied to offenders (in the typical presentation of the proposal to outlaw war) is certainly not realizable in the present stage of international organization. The treaty —or treaties—that would secure general agreement to use non-intercourse must themselves inevitably be the result of some previous experience in cooperation.

XV

That some "Declaration of Policy" by the United States, announcing to all the world our attitude toward war, ought to be made at once is urged by a far from homogeneous group, including those who recommend our entering some form of international association and those who do not. Some urge a declaration of policy because they really believe such a declaration is necessary to clarify the feeling of the people and the legislators of the United States; some—many—do so chiefly impelled by a Yankee anxiety to have the United States assume some leadership,—to make certain "unilateral" pledges to the world

whether any other nation makes them or not; some because they want to make it clear that the United States really does not have to join anything or relate itself to any association of powers. As one writer puts it: "It is an historical fact that the United States in the past in promulgating its major foreign policies has refrained from entering into conventions and contractual relations with other nations imposing upon it future political obligations involving the use of force, but has uniformly promulgated its policies on its own initiative and responsibility and has enforced them with its own power. In its whole history the United States has promulgated only three major foreign policies: a. Washington's Farewell Address. b. The Monroe Doctrine. c. The Open Door Policy for China, known as the Hay policy."

Sometimes a joint resolution of Congress is proposed, declaring it to be the policy of the United States not to resort to hostilities against any other power "except in defence against aggression." The United States would further state its belief in arbitration and peaceful settlement, its willingness to confer, and its favorable disposition toward a further reduction of armament. Such a declaration would settle nothing, but it would make our position clear—to the world and to us. In 1776, some say, America had the vision to begin with a declaration which enacted the spiritual impulse into law. "The delegates at Versailles gave us their articles of federation but the vital preliminary, *the declaration of peace*, was lacking." This writer, and others, would therefore have a "declaration of peace," which would be drafted by an international commission and be ratified by all nations simultaneously. This would be more than a mere literary flourish: "The

spiritual urge must be given legal status before it can be used as the foundation for further law." As several writers put it, a "declaration of interdependence" is due.

It is impossible to read these plans without knowing that it would gratify the souls of thousands of Americans to have the United States phrase the new world outlook toward the prevention of war as a formulation of our national policy—whether it is a literary flourish or not, and whether or not any other nation does likewise.

XVI

While usually recognizing that we do not have war just because we have the materials of war, hundreds of writers regard with suspicion the international traffic in munitions, believing that it continues wars where indeed it does not cause them. Thousands of other writers, without enlarging upon their premises, and, it may be, having little actual information to enlarge upon, show a firm conviction that, in the present state of the world, with wars and rumors of wars still imminent, we shall not get the right condition for either cooperation against war or education toward peace until by a prohibition of the materials of war the war game is first of all sharply stopped. Some of these papers are closely allied to the "Take the profit out of war" group. They often rest upon the premise that the common people left to themselves do not make war. "Nowadays it takes a lot of propaganda to bring them to the point where they will accept one." The private manufacturers of armament, even when not "class-consciously" treated by the writers, are regarded as in the very nature of the situation a complicating factor. The internationalizing of the commerce in munitions, together

with the increased destructiveness of modern "scientific" warfare leads directly, they believe, to the need of sharp emergency measures—government monopoly of the manufacture of munitions, and as soon as may be thereafter a general prohibition of the sale and manufacture of munitions by international agreement. All types, all intellectual grades, and all tempers of writers deal in one way or another with the need of prohibiting, permanently or for a season, the manufacture of war materials, or at least of regulating it. There may be nothing particularly profound in the reasoning that so long as munitions are made and internationally sold, so long will they be used. But there is no doubt whatever that this is one of the dominating convictions shown in the competition as a whole. Sometimes—not often—the difficulties are clearly realized: the difficulty of defining "materials of war"; the difficulty of permitting adequate supplies, for purely commercial use, of what may also serve as the materials of war; the difficulty of securing international agreement as to prohibition when as yet private manufacture is so largely the rule. It should be said that some of the writers who sense the nature of these obstacles most clearly seem nevertheless to feel that the thing could be achieved —in due course by expert research and international agreement. Not by proclamation!

XVII

Not many proposals concern themselves with governmental forms, or the existing machinery in our government for intercourse with foreign nations. A few papers take the line that the history of the past few years in this country does perhaps indicate some fundamental mecha-

nistic difficulty. They call for a better, or at least a clearer, definition of initiative and of responsibility as among the President, and the Department of State, and Congress, or the Senate, in regard to foreign relations.

There are a few definite proposals for the adaptation of present governmental forms dealing with foreign relations in ways calculated merely to facilitate approaches to these matters. Dr. Jordan's plan, printed here, suggests the restoration of a Bureau of Conciliation in the Department of State. The proposal of Mr. Everett P. Wheeler, Chairman of the Committee on International Arbitration of the New York State Bar Association, includes a recommendation for the establishment in the Department of Foreign Affairs of each nation of a Solicitor's Office, the duty of which would be to receive complaints against the action of a foreign nation, and to transmit them promptly for consideration. If this consideration should be delayed or refused, it would be the duty of this office to submit the case to the International Court, and it should have the power to do this just as a city solicitor or corporation counsel can submit a claim to a municipal or state court of justice. Need of generally improving the consular and diplomatic service is mentioned fairly often, but usually with only recommendations as to the general desirability of more distinctly professional rather than political standards in the diplomatic service, and adequate and specific training for the posts throughout. The most general assumption as to war prevention is that "diplomacy has failed." Against this conception there is an able paper written by Charles Avery Collin of New York City, calling attention to the possibility of utilizing to the utmost the Conference of Ambassadors as indeed the most immediate present hope.

XVIII

The group of economic plans is disappointingly small. Thousands of the plans, as has been indicated, show some sensing of the economic factors in war and peace and to that extent they are promising, however undeveloped. But no more creative possibility was opened up by the competition than the possibility of dealing intensively yet comprehensively with economic considerations, *and above all relating these economic factors to the political forms and conceptions which will make it possible to deal with them.* This is the imperative problem of international statesmanship, and it is along this line that the advances of the next few years will be gauged.

There is no more generally intelligent group in the competition, there are no more thoughtfully convinced students of war and peace, than the economic writers. But by and large they diagnose the situation infinitely better than they deal with it. A few—some of them included in the selection of plans published here—realize that the essential thing is to relate the economic and political factors, and are governed throughout by this realization. Other economic papers are chiefly valuable in presenting matters which they admit they cannot deal with but which do greatly need recognition and emphasis.

The discussion of economic proposals here is chiefly limited to those which are not merely essays but which attempt some political dealing with economic factors. The distribution of raw materials, the organization of the world's markets, and tariffs are the obvious major subjects considered. A few writers develop the thesis that the real complexion and function of any effective league

or association of nations will be economic and that the sooner this is recognized the sooner will genuine international cooperation be possible. And, according to some, the sooner by the same token will it be possible to have also a genuine world court. For a clear definition of economic interrelations in a deliberative conference will certainly facilitate the court's functioning.

A not inconsiderable number of papers look to the institution of an economic commission which, with full knowledge of the details of production in every country, would be able so to regulate trade that all would have equal opportunities. In this way undesirable practices in obtaining monopolies of natural resources could be stopped. Internationalization of all great waterways and channels of trade is sometimes required. Two interesting papers, one of which, Mr. Borglum's, is included in this selection, are based upon the control of world trade through the waterways to the high seas, as the non-militant method of making a World Court effective.

Numerous economic congresses, with varying agenda, are formulated: to reach agreement among the "non-industrialized, non-imperialistic, and raw material producing countries to put into operation a joint embargo on shipments to warring countries, and thus make war dangerous, difficult and unpopular"; or to create a temporary customs union to include all Europe if possible, which would place one uniform import duty upon goods imported into the European ports of the nations in the union, etc.; to establish free trade in Europe or generally. Those that urge free trade as either a dominant or an auxiliary proposal often make the point that international free trade is the practical expression of any theory of political economy

that carries the implication that the interests of the nations are not fundamentally in conflict with one another.

One (timely!) plan is based upon the determining importance of the petroleum oil industry in both causing and conducting wars. The solution offered is that the United States and Great Britain form a joint economic council to prevent further utilization of their essential economic resources in the prosecution of any war in which neither of the two countries is involved. The paper goes into detail as to the controlling position attained by oil and its products as elements of modern warfare. It makes the point that the natural oil resources of the world are largely held by companies owned and controlled in this country and Great Britain. The author makes much of the "simplicity" of his plan. The procedure indicated is to have the Senate by resolution indicate its sanction and approval of the negotiation of such an understanding.

A frequent and emphatic proposal in the economic and in other papers insists that it shall be made impossible for a loan to be made in a way that serves as a basis for the exploitation of an undeveloped country, with the use of our armed forces to back up the financial obligations arising out of "agreements" often not wanted and not understood by the people of the undeveloped country.

Those readers who do not subscribe to the flat statement that "the imperialism of the age is economic" will still consider it a sign of progress that through the efforts of the economic thinkers people very generally—and not the "radical" minorities alone—have more or less clearly come to see that no solution which ignores the economic factor can succeed. Many of the best friends of the League of Nations, so often cited as the typical "political"

organization, contemplate its future as concerned with the free discussion of the economic life of nations, the underlying economic causes of dispute for which the overt political act is often admittedly only the pretext.

These economic papers are therefore a very real contribution to the ideas on world peace. It is the more disappointing that many of them, brilliant in diagnosis, are weak in proposal; that thoughtful writers can make the curious implication that the economic and political life are forever disjoined. These writers are "word bound"; they forget that what any group does by common consent becomes thereby "political." They have fallen into the fatal error of defining politics or government in terms of its limitations and abuses; they fail to see that whatever its apparent and necessary rigidity, government can never be other than a flexible instrument of the group mind and spirit and that as such its capacity is as wide as the social need

Riding the economic theory too hard and too far, too many writers blindly follow the plausible truism that if we can only deal with the causes of war we shall be able to do away with war. Quod erat—et est—demonstrandum; unless in the "causes" we include every condition of human nature. They overlook the profound effect of psychological and racial factors. They overlook the fact of human experience that two people economically without grievance are quite capable of developing a war. One man whose plan is based entirely upon the thesis "Man fights to get what he needs," sets out to prove that if the peoples of the earth can be supplied with what they need, they will never fight. The problem of war prevention, therefore, as he sees it, is simply the engineering problem of

seeing that the material needs of man everywhere are amply met. He overlooks one basic fact in human experience: the rich man did not "need" Naboth's vineyard. A plan like this has no imaginative range. It fails to understand that what man needs will always have to be defined in the terms of what he thinks he needs, and the problem of war prevention therefore becomes a problem as wide as the range of the human mind and human aspiration.

XIX

A small group of writers believe that a "practicable plan" formulating the next step toward world peace should, in the present circumstances, be limited to a discussion of debts and reparations. Many hundreds of plans include such a discussion with other matter. The proposals made are chiefly those already familiar through public discussion. Cancellation of debts is sometimes proposed as an earnest of disinterestedness on the part of the United States. In other plans, any idea of cancellation, on the other hand, is sharply repudiated. A fairly popular idea is that the United States shall use its credit as a leverage for achieving disarmament. Progressive and conditional cancellation by the United States is proposed in proportion to the amount of reduction of expenditure for armament made by the debtor country, or countries, and usually on condition that the debtor country balances its budget. There are many variations of those proposals that deal chiefly with a loan to Germany or a great international loan. The feature common to many of them is that the United States is to furnish most of the money.

XX

There is at once more imagination and more banality in the "educational" plans than in any other group. It is unfair to generalize about them, for they include every type—pedagogic and mechanistic formulæ for "teaching peace"; peace through "publicity" and "drives" producing a popular state of mind by the crusading method so extensively developed in every hamlet during the past few years—if war drives, why not peace drives? runs the logic.

The educational plans also include a wide variety of generally practical proposals for educating the American people—and incidentally the people of other countries—in an understanding of international relations by the "exchange" system in many forms, and by utilizing the solidarity of common interests that know no boundaries, in art, science, business, etc. Among the educational plans must also be noted some rarely fine questionings of the social conceptions that admit war as a respectable activity, and some attempts to arrive at the true relation of a fine nationalism, and an "internationalism" which shall be something very much less than a repudiation of national individuality, and something much more than a blind emotional impulse.

A good many plans which, so far as their political or economic proposals go, have weight, include at the end an "educational" recommendation that is trivial. Many writers are frankly fumbling with the subject and say so. Yet there is significance in the general recognition that, no matter what "plan" of political action this country finally subscribes to, there is need of popular education in international understanding—and in a genuine nationalism.

A great majority of the educational writers see the thing as too simple a problem. It would be impossible to review here in detail all the ways in which war is to be "depopularized." The idea of war cannot be removed by taking the word war "out of the text-books, from the kindergarten up," any more than the pomp and circumstance can be taken from war by having the army dress in black and manoeuvre only at night, as one ingenious paper proposed. But there is a wide sensing of the fact that if we are to progress toward the point where war as a method of settling international disputes is to be "outlawed," its glorious past will have somehow to be retranslated! Thousands of plan writers point out that war has been too much glorified, that emphasis on military conquest and imperialistic acquisitions have entirely distorted the conception of nationalism. They are seeking some means by which the real achievements of statesmen, artists and scientists may become the nationalistic record to be set before youth. A good many of these papers reflect the besetting sin of the pedagogue, preoccupation with method. They go on a theory that a "dynamic will to peace" can be created by the same methods now used to develop a will to war. Find the right educational system and you will rapidly produce the right state of mind. But the right method isn't a method at all; it is an understanding. They are right, certainly, in emphasizing the fact that not until the public education system of the country genuinely reflects international understanding as opposed to a mere history of national conflict can a popular conception of a peaceful civilization be either inculcated or perpetuated.

There are many proposals for extending the idea of ex-

change scholarships and exchange professorships. One plan which proposes 2,500 "international honor scholarships" for foreign students desiring to study in American institutions points out that "the cost of one battleship would support this plan and the expense of 25 international scholarships annually for ten years. Yet the peace of America would be better secured by the presence of these students, returned to the cities of the world, than by a squadron of our battleships anchored in the waterways of the world." The Cecil Rhodes idea is more than once commended: "When youth lives together, plays together and thinks together, it will not, to any unhealthy extent, tend to fight together."

A perceptive few build great hopes on the growth of understanding of "interdependence" among special groups and special interests in all countries. Artists, however intensely national, have always understood where national boundaries fail to apply. Art is the greatest solvent, and Science the next greatest. The scientists of America and of any other country have no difficulty in acquiring an international outlook. They do not, indeed, acquire it; it is essential in that truth-seeking impulse upon which their work must be founded.

One of the papers in this collection, "The Organization of Scientists for Peace," written by a research chemist, suggests that the scientists of the world organize in a "technocracy" in which the Hippocratic oath is the devotion of their powers to the arts of peace only. Among scientists already there is the international bond of understanding. Critics of the paper have pointed out that it rests upon a fallacy in that scientists, whatever the international bond, are not immune from the mixed or mer-

cenary motives that would make them vulnerable to prospects of profit or of comfort. Commanded, and commandeered by his country to use his science for war, would it not be the man rather than the scientist of international perception that would respond? Perhaps. The experiment has never been tried. But there is tremendous force when men are joined in a clear perception and a clear conviction.

Such a perception and such a conviction are now steadily penetrating other groups than the eternally set apart artists and scientists. Labor during the past few years has grown in international understanding, internationally organized business men have long seen the need of a "workable basis of cooperation" politically, and business men not so organized have begun to see it too. Many a good solid American business man traditionally of the "let us mind our own business" variety has found himself, after a few months' trip abroad or after a survey of foreign business conditions, suspecting (perhaps shamefacedly at first) that you can't practice cooperation in business and isolation in everything else. With the growth of this kind of understanding along the lines of special interest, in art, science, business, must come also the growth at last of some realization of solidarity in average human nature. It isn't that we drop loyalties, or indeed that we take on new commitments. It is simply that we take on understanding.

Touched upon blindly in thousands of the plans, and dealt with finely and clearly in a very few, is one of the most significant ideas turned up in the whole discussion—*the need of a finer and truer conception of nationalism.* No plans are more interesting than the rare few that delve

into this problem with any clarifying insight. The thing in the writers' mind is not the familiar and largely sentimental "internationalism." It is a profounder philosophy, taking into account the deeper currents of life and art and human motives. Many allied papers whose authors could not navigate in these deep waters nevertheless constantly reveal a sense that a mistaken ideal of nationalism is at the root of war and of the tolerance of war that marks our present civilization, a sense that a perverted nationalism *permits* wars when indeed it does not *initiate* them. Over and over again, the question is raised as to the wisdom or the viciousness of maintaining an educational tradition which permits leaders to induce people to think that the interests and welfare of people on one side an imaginary line can be radically different from the interests and welfare of people on the other side of that line, or that the welfare of the one can be obtained by measures that bring disaster to the other. They challenge the blatant "patriotism" of an older day that glorified the battlefield and emphasized the particular country's victories. And they challenge the just as blatant patriotism of today that emphasizes the particular country's "prosperity"! Just as the czar or king of old could prove that military victory over a neighboring community was necessary for the working out of nationalism, so the leader of today can point out that the American manufacture of tin cans or lace curtains is necessary for the "prosperity" of America. The modern forces exalting nationalism may have a less picturesque task than the task of the ancient ruler, but it is after all the same task.

Dangerous ground, all this, perhaps, but it must some day be trod. It is not dealt with in any of the "practi-

cable plans," but there are clear eyes looking toward it. The problem is not the problem of "obliterating" boundaries, but, while even preserving differences, of recognizing the organic unity of all mankind.

XXI

The thousands of manuscripts submitted in the American Peace Award show that at least a very significant group of the American people, representing every state in the Union and every degree of cultivation and of political experience, want, in overwhelming proportion, to have the United States formulate speedily its position toward international cooperation and the prevention of war. What "plan" is chosen and who devises it are much less important than that some policy shall be achieved,—upon its merits. If we are to be "isolated," let it be by formulated decision and not by default.

To make this possible, to lift the whole question of international cooperation from the field of partisan political discussion on the one hand, and from the field of sentimental popular impulse on the other, more general and more accurate information than now exists is needed—among citizens and legislators alike. We are suffering now from the true isolation of ignorance. Priding ourselves upon selling our goods to the rest of the world we are still unable to see the implications in the very conditions of our own prosperity. In many a remote community sending a missionary box to China once a year still expresses the caliber of the popular conception of our foreign relations. We need information about the rest of the world in general and in particular; information about the extent and nature of the ties that already relate us to other nations;

information as to what are the possible forms of international cooperation and international action for the prevention of war; and finally information as to what *are* the traditions of this country and whether or not "American precedents" do in spirit prohibit any formal cooperation with other nations.

The American Peace Award has been engaged in no "propaganda" for any one cause or any one "plan." It represents, perhaps, "propaganda" for information. In the plans here published, in the winning plan, and in the thousands of other plans prepared and submitted, it has set in motion far-reaching currents of ideas and opinions. It has been the means of extending understanding of the ways to peace, and in so doing needs no apology, no justification, and no defense. In this growth of popular understanding, there is the surest indication that at some not very distant date the United States will choose one of these ways.

ESTHER EVERETT LAPE.

I

SUGGESTIONS FOR NON-POLITICAL ASSOCIATION OF THE NATIONS

COOPERATION THROUGH THE ECONOMIC CONFERENCE AND INTERNATIONAL TRADE COMMISSION

BY EDWIN BORCHARD

Edwin Borchard, Professor of Law in the Yale University Law School since July, 1917, served as expert on international law to the American Agency, North Atlantic Coast Fisheries Arbitration at The Hague in 1910. During the same year he travelled in Europe for the Library of Congress to investigate and acquire literature on continental law. From 1910 to 1916 he was Law Librarian of Congress with the exception of 1913–14, when he served as Assistant Solicitor of the Department of State. He is counsel for the Government of Peru in the Tacna-Arica Arbitration and has served as counsel in other international cases. His published works include: "Guide to the Law and Legal Literature of Germany," "Bibliography of International Law and Continental Law," "Diplomatic Protection of Citizens Abroad," "Commercial Laws of England, Scotland, Germany, and France," "Guide to the Law and Legal Literature of Argentina, Brazil, and Chile," etc.

I

SUGGESTIONS FOR NON-POLITICAL ASSOCIATION OF THE NATIONS—

COOPERATION THROUGH THE ECONOMIC CONFERENCE AND INTERNATIONAL TRADE COMMISSION

Any plan for the amelioration or mitigation of war, the malady which now threatens the ruin of European civilization and which may readily extend its sphere of influence, must of necessity correctly diagnose the causes of the malady. Plans for international peace are as old as the system of national states, and it would seem that any hope for even moderate success in the solution of the problem must find its justification in a correct diagnosis of the facts which cause international strife. Nor can all the causes of war be at once dealt with, for these causes are exceedingly complex and it is not always easy to isolate the political, economic and psychological factors which enter into their composition. If, therefore, an effective and practical step can be taken to eliminate or weaken one of the main factors, which in this industrial world has been raised to major importance as a cause of war, it may be that progress will be made and that the other less potent causes of war will either take care of themselves or can be dealt with subsequently. The factor to which attention should, therefore, be addressed in first instance, is the economic factor.

While realizing fully the enormity of the task of weak-

ening and deflating any of the causes of war, and of dealing intelligently and effectively with so important a cause as the economic, the task must be undertaken if mankind is to have any respite from the wars which, unless prevented by early cooperation, are more than likely to occur in this century. And as the end in view is overwhelmingly important to mankind, it is believed that the world may be ready to take some practical, even radical steps to bring under international control such a disturbing and irresponsible fomenter of war as the economic struggle for place, power and wealth among the industrial nations. It is believed that an effort can and should be made to bring under international control this international unfair competition which is governed by few rules, either of law or moderation, and now inevitably serves to bring into opposition nations with competing commercial policies. This includes all the industrial nations, and the late war is tangible evidence that the fermentation of these conflicting economic interests and policies easily leads to political conflict and war. It would seem only reasonable, therefore, that at this moment of temporary lull in the armed conflict, some rational effort be directed toward controlling this most disturbing of all the factors which make for war. It is believed that to a large extent existing agencies, such as a modified association of nations and an International Court, both the Permanent Court of Arbitration and the Permanent Court of International Justice, can be used in the execution of the plan, and that the non-political character of the enterprise will induce the adherence of the United States Executive and Congress to the plan.

What is proposed is an Economic Association of Nations, of which all, and not merely some, nations shall be members, which shall function, not to secure the political control of the world's affairs by any particular group, but which shall make a serious effort to study the movements of international commerce; the factors which make up commercial competition, national competition; the extend of monopolization of raw materials and markets, with the conflicts of economic interest thus produced; and finally to propose rules and regulations for the control of this gigantic traffic, so that monopoly and the disadvantageous results thereof shall be ameliorated and that law, emanating from an international authority, shall enter into a sphere of activity from which it is now practically excluded. Any success in controlling this economic conflict will largely eliminate, it is believed, one of the most potent forces and factors making for war among industrial nations. These are the wars that threaten civilization, and attention will be confined to them.

A reading of history, with some knowledge of the operation of modern international business and its ancillary political machinery, discloses that the foreign policy of every industrial nation is rooted in two major motives, national security and national prosperity. In the name of these two motives, every national policy is justified to the people. In a world in which security (or self-preservation) and prosperity or economic well-being and aggrandizement are the key-notes and inspiration of national existence and government, and the physical power to carry into execution the resulting policies is left without organized limitation or control, the judicial

process will be found rather tenuous as a solution for conflicts of interest.

In the national domain, Government exists for the promotion of internal peace. It seeks to prevent particular groups in the community from obtaining unfair advantage over others, under a standard of fairness dictated by the *mores* of the time, and thus endeavors to preserve an approximate equality of opportunity and equilibrium in economic activity. This aim is evidenced in the United States, for example, by such statutes as the Interstate Commerce Act, the Anti-Trust Law, and the Federal Trade Commission Act, designed to prevent unfair competition.

In the international domain, on the other hand, the struggle among the large powers for economic advantage, convincingly justified by the supreme motives of national security and prosperity, goes on unceasing and unabated. The Foreign Office, with the Navy and Army as dependable and necessary supports, is the national agency for the promotion of success in this continuous struggle. It is at all times in the position of aggressive readiness to promote the national economic interests and, of necessity, to defend itself against advances made or threatened by other nations. The unstable equilibrium thus engendered is in danger of disturbance at any time. It may be useful, therefore, in the process of diagnosis, to analyze the forces and factors which lie at the foundation of current international relations.

With the application of machinery to agriculture, mining and manufacture, came mass production and the necessity for overseas markets. These brought in their train certain political and economic objectives in the

promotion of national security and prosperity which constitute of themselves fruitful fields of international discord. These policies are at present deemed domestic and not subject to external control; yet as they obviously affect the well-being of other nations, it is equally obvious that they require international supervision. Some readiness to admit of qualifications of the asserted absolute sovereignty of the state must accompany any plan for the international regulation of the causes of war. Nations that undertake to constitute themselves plaintiff, judge and sheriff in their own cause, cannot be expected to make any serious contribution to the promotion of peace.

The first of these objectives of national policy is the control of raw materials and markets. This effort necessarily results in protective policies for home markets, the quest for assured supplies of raw materials, governmental aid in varying degree in opening foreign markets and, as an accompaniment of the latter, the investment of the surplus income in foreign, often backward, countries. Not all industrial nations employ identical methods in the development of these policies, which easily lead to imperialistic enterprises of many kinds; nor is the intimacy of the association between government and business identical in the different types of policy. But in a general way, these are the objectives of the modern public-service corporation known as the industrial state.

Under present *mores* it is conceived that every nation is at liberty to adopt and promote these policies without regard to the needs or interests of other nations. Self-interest is the only guide of national action. Yet a tariff for the protection of home markets necessarily affects

the trade of other nations that may be injured thereby and may resent the injury. Just as the interstate commerce clause of our Constitution welded us into a nation by razing tariff barriers, so the international tariff barriers now almost universally adopted are a most important cause of nationalistic conflict of interest. While international free trade might not be immediately desirable or necessary, it seems clear that the tariff as a cause of international conflict requires study by an international commission with a view to recommendations of policy. Only the limited few now realize that tariffs constitute a cause of economic conflict. The mere proposal of imperial preference by Great Britain in the effort ultimately to dispense with the importation of American cotton, tobacco and automobiles has produced political reverberations among interested circles in the United States.

The belief in the necessity for an assured supply of raw materials and foreign markets motivates the effort to secure political control over both. The colony and its more attenuated forms of political and economic control, the protectorate, the mandatory and the sphere of influence, all exemplify the effort, in varying degree, to reserve for home industry and nationals, so far as deemed necessary, the resources of these territories and their usefulness as markets for national products. That this effort at monopolization or control of what is essentially a matter of international concern should produce national conflicts of interest is only natural. The American policy of the Open Door in the Far East and elsewhere is a direct response to this effort of foreign nations. Even the investment of national capital abroad serves to

strengthen the bond between home industry and colonial and other outlets and to exclude therefrom other nations and nationals. This whole field of enterprise which is now conducted on the basis of uncontrollable national power and privilege, governed by practically no rules of international law and qualified only by considerations of expediency and self-interest, is eminently a field which requires international examination and control. This is perhaps the most fruitful field of international unfair competition and therefore of international conflict and requires immediate international control and supervision if peace is to be brought appreciably nearer.

These objectives of national policy are deemed to require for their execution certain instruments which also of themselves afford opportunities and incentives to conflict. These instruments lie partly in the economic, partly in the political field. The economic machinery exists principally in the domain of communications and covers a merchant marine, trade routes, coaling and oil stations and cables. The assured control of these instrumentalities is deemed essential to successful large-scale commerce. The late war has demonstrated that the trade of a nation without this equipment is a matter of sufferance only, terminable at will. Hence the effort to assure their control in the national interest and necessarily, when deemed desirable, to exclude other nations from them. The potential use of controlled cables for unfairly securing commercial information and for the dissemination of propaganda is a matter of almost common knowledge. Instrumentalities of this kind which affect not only the owning nation, but the entire world, should not be subject to monopolistic or exclusively national con-

trol, but should be placed under international supervision.

Foreign policy being fashioned to the maintenance of supremacy in the continual struggle for economic advantage outlined above, political agencies soon become essential to success. Foremost among these are armies and navies to insure the protection of the sources of raw materials and of the markets won, and to reduce the risks of the enterprising trader and investor who have thus aided in national aggrandizement. Nor can aggressive economic policies be long pursued without the creation of enemies, who feel their competition weakened, threatened or challenged. Hence the casting about for alliances, necessarily dictated by self-interest, with a view to the division of risk; for every large trading nation realizes that the economic competition may at any time break into the political field in open hostility. Of course, alliances usually produce counter-alliances and ultimately promote the instability of the equilibrium and enlarge the area of conflict. Here, too, secret diplomacy finds its place in the scheme of things, for the continuous play for position with its concomitant distrust induces the very antithesis of open covenants openly arrived at. Finally, a new agency for the advancement of the national interest and a factor of exceptional importance in foreign policy has made its appearance in the international sphere, namely, political propaganda. Its rise is coincident with the advance in the science of psychology and advertising, with the growing rapidity of communications and with the development of the daily newspaper and the "movies." Its use has become a fine art, and its insidious employment for political purposes

threatens to debilitate the intelligence. It has become almost as important an accessory of diplomacy as the army and navy. Yet the only defense against this new subversive agency is the cultivation of an intelligent opinion by a critical press and public—a task which is not easy.

These then are the forces and factors operating in the sphere of international relations. Without an understanding of their mode of operation and their influence, the malady of the international body politic cannot, it is believed, be understood. Hence the primary thought in the plan suggested below is to direct attention to the isolation and analysis of these forces and factors, in the belief that the search-light of inquiry will reveal the dangerous germ to public understanding and appreciation and elicit ultimate support for the necessary international measures designed to combat and counteract its disastrous influence. As the plan is designed for a practical, cautious and conservative world, in which success would be achieved not by any panacea but by slow progress from one stage to the next, and as it is designed to constitute commissions whose recommendations to the governments shall be advisory only, it is believed that the United States would gladly participate in the undertaking.

THE PLAN

While using the machinery of the existing League of Nations, the international association contemplated in the plan is designed to subserve economic and not political purposes, though they may ultimately result in political arrangements. The experience of the last five

years has demonstrated that with the industrial nations still pursuing their selfish aims for national aggrandizement, a political League of Nations cannot yet be successful. Moreover, as failures are demonstrated and as Europe becomes more deeply involved in its traditional political intrigues and struggles, the chances of the United States joining the League of Nations appear to be becoming gradually more remote. It would, however, be undesirable to lose the benefit of the rudimentary international organization which the League manifests. The greatest chance of its perpetuation and of securing adherence to it by the United States would be insured, it is believed, by dropping the purely political clauses of the Covenant,—retaining the administrative functions of the League and adding to its functions those of an international trade conference for the study of the economic causes of war mentioned above and for the recommendation of policies designed to prevent the existing clashes of national interest in the economic field. If the association were conservative in its recommendations, yet with an eye fixed toward the great objective, its influence would grow and the confidence of the people could be won, so that in time that nationalistic psychology which, without adequate information, encourages and supports wars of aggrandizement, could be educated to a realization that in international cooperation in the economic field lies the greatest hope of permanent prosperity and a fair assurance against recurrent wars. Such confidence might ultimately result in the vesting of larger powers in the international trade commission, one function of the association of nations, and thus secure a wider jurisdiction for international economic legislation. If national sovereignty is thereby impaired, it would be

a gain to the world and no nation interested in the preservation of the lives of its people would, it is believed, object to this limited measure of international trade regulation. The best evidence that this is possible is the federal government of the United States, which first justified its existence by the realization that some federal fiscal and economic control was an advantage to the constituent states. While the international effort will be more difficult, the popular conviction that it is a step in the right direction will tend to weaken the resistance of nationalistic Governments desirous of pursuing their own selfish ends contrary to the general welfare.

Concretely, then, the plan suggested is

1. To have one or more of the larger powers call an international conference of all the states of the world, preferably at The Hague.

2. To propose the amendment of the Covenant of the League of Nations, so as to drop its essentially political clauses, such as those looking to the control of war by joint belligerent or hostile action.

3. To add to the Covenant or the new Constitution as it might better be called clauses enabling the League, with the aid of expert commissions, to resolve itself into an economic conference and make decisions recommending action in economic policy to the nations.

4. The first subjects for commission study and report and eventual conference recommendation, should be:

a. The international control of raw materials.
b. The international control of foreign markets.
c. The international effect of tariffs and their international control.
d. The international control of merchant shipping.

e. The international control of coaling and oil stations.

f. The international control of cables.

5. The League of Nations should establish an International Trade Commission, on the order of the United States Federal Trade Commission, which shall be given jurisdiction of complaints of unfair competition by any nation, as incidental to a national economic policy. The finding of the International Trade Commission shall be published but shall have the effect of an advisory opinion and finding of fact, not enforceable by anything but public opinion.

6. Efforts should be made to persuade the people and the nations to give obligatory jurisdiction to the Permanent Court of International Justice in at least the limited field of legal questions which can now be submitted to it.

7. The Hague Conference should be reconvened, and one of its functions should be to sanction the codification of international law under its jurisdiction, following the method of reporters on special topics, acting with the advice of experts, on the order of the plan of the American Institute of Law. The services of the Institute of International Law and of experts in every country should be enlisted in this effort. The codification should not be forced on any nation, but should be available as a source of law by virtue of its merits alone. Public opinion would aid in securing its acceptance when occasion arose to invoke its provisions.

8. The Covenant of the League should be called Constitution of the League or Association and it should

be separated from the Treaty of Versailles. Association with the Treaty has injured the League in most countries and this seems unnecessary. The Treaty of Versailles may have to be revised in several important respects if Europe is to live under it in peace, but this should not be the work of the amended League or Association herein suggested.

It is believed that these suggestions are practical. They are based on an appreciation of existing facts. They offer no panacea, nor do they profess to afford a programme which will terminate the possibility of war. They are, however, directed toward existing evils, many of which lie close to the root of war among industrial nations. They are designed not to bind nations, thereby risking the refusal of governments to co-operate, but are intended to furnish a practical method by which people can understand the major reasons for recurring war and bring the pressure of public opinion on governments to adopt the suggested remedies, if by their merits the people are convinced of their efficacy. Thus slowly must tangible progress be made, but the more likely is it thereby to be sure. The suggestions are believed to be so conservative, while promising effective reforms and remedies, that it is believed that they would commend themselves to the Government of the United States, including the Congress, and to the American people.

II

WORLD COURT DISSOCIATED FROM THE LEAGUE

A UNIVERSAL TREATY BASED ON "TREATIES FOR THE ADVANCEMENT OF PEACE" ALREADY CONCLUDED

BY CHRISTIAN A. HERTER

CHRISTIAN A. HERTER, assistant to Secretary Hoover of the Department of Commerce since 1920, was attaché at the American Embassy at Berlin for a part of the year 1916. He was temporarily transferred to the American Legation in Belgium. He left occupied Belgium on the severance of diplomatic relations with Germany in February, 1917. He was special assistant in the Department of State in 1917–18; Assistant United States Commissioner and Secretary, Special Diplomatic Mission to conclude agreement on prisoners of war with Germany, in Switzerland, August, 1918, to November, 1918; special assistant, the American Legation at Berne, November, 1918, to January, 1919. From January, 1919, to August, 1919, he was Secretary to the American Commissioners at the Peace Conference at Paris. From September, 1919, to March, 1920, he was Diplomatic Secretary, Department of State.

II

WORLD COURT DISSOCIATED FROM THE LEAGUE. A UNIVERSAL TREATY BASED ON "TREATIES FOR THE ADVANCEMENT OF PEACE" ALREADY CONCLUDED

THE WORLD COURT

Agreements for the enforcement of peace, with all the obligations that they require nations to fulfill, cannot give assurance of peace because they cannot command the necessary good will. In this day and generation enlightened public opinion is the only force that can safely be counted on to prevent wars. The effectiveness of public opinion, however, depends upon three factors which only international machinery can supply.

1. An assured breathing space between the first appearance of an international dispute and the final resort to arms.

2. A full knowledge of the facts surrounding such disputes as might lead to war.

3. A background of international law derived from the judicial decisions of the most impartial tribunal that can be devised.

These are the factors which the United States should take the lead in securing and which the present plan hopes to provide for in a practical form.

To secure these ends this plan first provides for the adherence of the United States to the Protocol and Statute of the Permanent Court of International Justice. The idea of the Court is not a new one, nor is it a "foreign device." In its fundamentals it is a characteristically American idea, truly in harmony with our conception of the best in judicial procedure. It has been supported by leading Americans for decades; it has been advocated by American representatives at world conferences at The Hague in 1899 and 1907 under the inspiration of McKinley, Roosevelt, Hay and Root; it has been written into American political platforms; it has been shaped into a statute with the assistance of a former American Secretary of State, and that statute now lies under the consideration of the Senate of the United States, having been presented to that body with strong indorsements by the late President Harding, and by Secretary of State Hughes.

No substantial opposition exists to the idea of the Court itself. To any connection of the Court with the League of Nations, however, considerable objection has arisen, and slight though the present link may be, Secretary Hughes took cognizance of its dangers from the point of view of the public mind and suggested certain reservations. Those reservations in substance specified:

1. That the United States in adhering to the Court should not assume any obligations, real or implied, under the Covenant of the League of Nations.

2. That the United States should bear its share of the expenses of the Court.

3. That the Statute of the Court should not be amended without the consent of the United States.

4. That for the election of Judges to the Court the United States should participate on an equal footing with other nations in the Council and Assembly of the League.

Comprehensive as these reservations are, they still leave just enough connection with the League to prevent a complete dissociation of the two in the many discussions and debates on the Court which will surely arise. Such dissociation is desirable. Neither has any necessary connection with the other, and only by giving the people of the United States and the members of the United States Senate an opportunity of voicing their views on the Court alone, strictly on its own merits and without any regard to the League, can a real decision be reached.

Moreover, such dissociation is feasible. The present plan calls for a reservation in the adherence of the United States to the Court which goes farther than the Hughes reservations and *severs the Court from the League completely;* to wit,—that all judges elected to the Court in future should be elected by the diplomatic representatives to The Hague of all nations meeting together in council, and that for the purpose of election these diplomatic representatives should divide themselves into an Executive Committee and a Committee of the Whole. The Executive Committee should consist of 15 nations, namely, the United States, Great Britain, France, Russia, Germany, Italy, Japan, Belgium, the Netherlands, and six other nations selected by the Committee of the Whole. These latter six nations should serve one year terms and no single nation should serve more than two consecutive terms. The names submitted

should be taken from the same panel as that provided for in the existing statute, and election should be by absolute majority of the Committee of the Whole and the Executive Committee, voting separately.

In addition, wherever the League machinery (i.e. the Assembly, Council and the Secretary General) is specified in various matters of procedure under the statute of the Court it should be replaced by the diplomatic representatives at The Hague, their executive committee, and a special secretary selected for this purpose.

Other reservations should be appended specifying that the United States would bear its just share of the expenses of the Court and that any future amendments to the Statute should be made only with the consent of the United States or by the Committee of the Whole and the Executive Committee of the diplomatic representatives at The Hague, employing the same procedure as is now provided for in the case of the Council and Assembly of the League of Nations.

It is doubtful if any nation, or the League of Nations itself, would take exception to these reservations. If they assured American participation in the Court they would undoubtedly be welcomed. Indeed, the further separation of the Court from the League might increase the respect for the impartiality of its judgments in other countries besides the United States, since a judiciary completely independent of legislature and executive is now the almost universally recognized ideal. It is true that in the particular grouping of nations which the Council and Assembly of the League first made possible was found the solution to the difficult problem of selecting Judges for the Court—a problem found insuperable in

1899 and 1907—but the suggested reservation on this point maintains that same grouping with two minor changes:

First, the Assembly of the League of Nations contains representatives of the British dominions which have no independent diplomatic representation in the capitals of the world, whereas this reservation provides that only nations having diplomatic representatives should be entitled to vote. This would confine the British Empire to one vote. Should the dominions secure independent foreign representation, however, they would then be entitled to vote as sovereign states.

Secondly, a change is made in the composition of the Executive Committee as compared with the Council of the League. The nine nations selected in this reservation to sit permanently on the Executive Committee have been chosen after careful study and weighing of the commercial, economic and historical importance of each nation, with particular reference to its foreign trade and its overseas possessions, if any. It is doubtful if any valid objection could be made to a proposal that these nations be awarded permanent seats on the Executive Committee. In the case of a nation like Russia, the government of which has been recognized by only a few of the powers of the world, it would not be represented in the elections until it either had a formally accredited diplomatic representative at The Hague or until its government had been recognized by a sufficient number of the great powers to make some special representation feasible.

A UNIVERSAL TREATY BASED ON TREATIES ALREADY CONCLUDED

The second step in the plan has its basis in the extension of the already existing *Treaties for the Advancement of Peace* negotiated by the United States with foreign powers during the years 1913-1914. These treaties are founded upon the fundamental idea that if nations will agree in the event of a dispute not to go to war for a given period of time, during which the facts surrounding the dispute may be thoroughly investigated and given to the public, and during which public opinion can be allowed to exert its pressure, the danger of wars is sure to be greatly minimized.

In all, the United States negotiated thirty of these treaties; *tweny-nine were ratified by the Senate without reservations;* twenty were proclaimed as being in force. Though they differed in certain unessential details, they all provided that any dispute of any nature whatsoever between contracting parties should be referred to a commission of inquiry, the actual machinery for the commission being constituted at once, and its personnel selected. They further provided that the contracting parties should refrain from committing any hostile act until the commission of inquiry should ascertain the facts surrounding the dispute, and report thereon.

One provision which all of these treaties contain, and which it is well to emphasize, is that no obligation rests on any party to the treaties to abide by recommendations which may be made by the commission of inquiry. In other words, the nations parties to these treaties assume no ultimate obligation of positive action but merely the

temporary and negative obligation of refraining from war for a given period.

The present plan proposes that the United States should put before the other nations of the world, through diplomatic channels, a Universal Treaty* based on the principles of the treaties referred to above. . . . Should it be ascertained, however, that such a Universal Treaty would not be welcomed by a sufficient number of other nations to make it practical at the moment, then the United States should negotiate with other nations of the world a treaty similar to those which it has already ratified in the case of twenty-nine nations and should urge all other nations to do likewise as between each other. Already Brazil, the Argentine and Chile have concluded a tripartite agreement based on these treaties and there is no reason why all nations should not follow their example in the course of time. Practically every

*The actual provisions of such a treaty could follow closely those already accepted in the many treaties for the advancement of peace concluded to date. The most contentious point likely to arise would be in connection with the composition of the commissions of inquiry. To meet this difficulty the following procedure is suggested: In the case of a dispute involving two nations only, the commission should consist of the diplomatic representatives of the two parties at The Hague (or at any other capital that might be agreed on in advance), the diplomatic representatives of two other nations, one chosen by each of the two parties, and the diplomatic representative of a fifth nation chosen by the four already provided for. In the event of disagreement, the fifth should be chosen by lot from a panel of disinterested nations. In a dispute involving more than two nations the commission should consist of the diplomatic representatives of all the parties plus the diplomatic representatives of disinterested nations numbering one more than the parties to the dispute, the latter to be chosen by common agreement or, failing agreement, by lot. Diplomatic representatives have been specified in each case as they are always available and hence no time would be lost in assembling the commission. However, these representatives could be replaced at any time by special commissioners appointed for given inquiries or nominated in advance.

nation has bilateral commercial treaties with every other nation and in a majority of cases they differ only slightly in substance and form.

One important addition should be incorporated in such a Universal Treaty, or in every one of the treaties now in force or negotiated hereafter. It is submitted that each of these treaties should contain a provision to the effect that any question of interpretation of that treaty, or any violation thereof, *should ipso facto or at the request of any single nation party to a dispute be referred to the Permanent Court of International Justice for decision.*

This additional provision would *outlaw war.* The process of outlawing would consist in the fact that if a nation should commence hostilities in violation of the treaty the Court would immediately sit in judgment, try the violation as a breach of contract, and determine what reparation should be made therefor. It is true that the period during which war is outlawed would be limited, but the healing processes of delay, investigation and public knowledge of all the facts are such that it is almost inconceivable that nations would go to war at the expiration of the period. In this connection it is well to emphasize that no force except that of public opinion can or should be counted on to secure the enforcement of such judgments as the Court might render.

The arguments in favor of the United States' advocating the adoption of a Universal Treaty (or a series of treaties) as outlined above are obvious.

In the first place each step is entirely practical from the political point of view so far as the United States is

concerned. The Senate has ratified twenty-nine separate times treaties such as the one suggested, and it is hard to believe that if similar new treaties were negotiated it would refuse its ratification. Such inconsistency would be contrary to the continuity of policy which the Senate is proud to maintain. Furthermore, twenty-nine other nations of the world have ratified such treaties with the United States and, if they really desire to minimize the danger of future wars, they should welcome a suggestion that they negotiate a Universal Treaty of this character or similar treaties among themselves. Ancient rivalries or antagonisms may prove an obstacle but the example of the Argentine, Brazil and Chile is in itself proof that this is not a visionary proposal but an entirely practical solution, regardless of past frictions, and even though the ideal of universality might not be reached at once, every new treaty would represent a distinct step in advance.

The addition of the special provision which would, in effect, outlaw war should not be objectionable to the United States Senate. It does not contain any of the features that in the past have beset the path of Arbitration Treaties, since matters of national honor, matters of purely domestic concern, matters involving the Monroe Doctrine, or matters involving the vital interests of the United States, would not be subject to the jurisdiction of an international tribunal. *War alone would be brought to trial.*

In so far as the League of Nations is concerned, this plan leaves that organization untouched except in the matter of electing Judges to the Court. American participation, however, in any form whatsoever, whether as a full member, a partial member, or an associate, has been

passed over for the fundamental reason that the League has assumed an unacceptable guise in the minds of the American people and the Senate. At the same time the League is a necessity for Europe, not so much by virtue of its fundamental charter, the Covenant, but because of the administrative and executive obligations which it acquired under the Treaties of Peace and subsequent agreements arising out of the World War. Its existence has brought solution to many difficult and important problems such as Danzig, the Saar Valley, various boundaries, etc., and for the United States to usher it out of existence without offering an acceptable substitute to take over these functions would be utterly unwarrantable.

In addition to its administrative and executive functions the League, through its technical committees, is doing good work in many fields of international concern, such as suppression of the traffic in opium and in women and children, in transit and customs regulations, in public health problems, etc. This work is constructive and useful. The United States has taken part in it whenever the Government thought American technical advice would be helpful, not as a member of the League, but as a nation truly interested in international cooperation along these lines. This work will undoubtedly continue and the United States should lend its assistance wherever possible.

As an instrument for preserving peace the League is handicapped in having too extensive powers of enforcement. Should the League declare a nation to be a violator of the Covenant and should any or all of the members refuse to take the extremely stringent measures such a declaration requires, involving as they do a sever-

ance of all relations with the violating nation and in some cases actual military force, the entire structure and prestige of the League would crumble overnight. In other words, the League is still a child, endowed with great power, but a child who fears to use those powers until it has grown in strength and wisdom, lest in using them it fall of its own weight.

Just as this plan proposes no material alteration in the League of Nations, so likewise it proposes no alteration in any existing treaties that make for peace. In fact, every step proposed is but an addition to already existing agencies, and the whole carries with it nothing of a destructive character. Furthermore, because of the disinterested position of the United States with respect to most international controversies, its opinion as to the best peace mechanism must carry great weight everywhere. Lastly, the United States now enjoys such a preponderance of power that any plan of international peace which it proposes and supports with vigor is already far on the road to accomplishment, in the same way that any such plan which it repudiates is practically foredoomed to at best a very partial success. But the United States must be careful not to squander this rich opportunity for service in too radical departures. Action leading to international peace gives the best field of all for the old advice to make haste slowly.

III

CONFERENCES—

A FLEXIBLE METHOD FOLLOWING AMERICAN PRECEDENTS

BY WILLIAM S. CULBERTSON

WILLIAM S. CULBERTSON, lawyer, vice-chairman of the United States Tariff Commission, has been especially interested in problems of commercial policy. He was connected with the United States Tariff Board from 1910 to 1912; in 1917 he was appointed as one of the original members of the United States Tariff Commission by President Wilson and in March, 1921, was reappointed by President Harding for a term of twelve years. In 1915–16 he went to South America as the representative of the Federal Trade Commission to make studies of economic conditions. His published works include: "Commercial Policies in War Time and After" and "Raw Materials and Food Stuffs in the Commercial Policies of Nations." He was technical advisor in charge of economic questions of the American Legation at the Conference on Limitation of Armament, 1921.

III

CONFERENCES — A FLEXIBLE METHOD, FOLLOWING AMERICAN PRECEDENTS

INTRODUCTION

Any practical peace plan must recognize the *nation* as the basic unit of our present civilization. It would be unwise to defy the sentiment of nationality, even if it were possible, since it is the soundest basis on which to rest a plan for the achievement of stable world peace. Proposals for preventing conflicts in international affairs have not infrequently been associated with a sentimentalism that casts reflections on many things which national loyalty holds sacred. Patriotism—intelligent patriotism —however, is too deep-seated, too fundamental, for us to attempt to build on any other foundation.

On the other hand, we can make no progress if we rely solely on isolated nations. The nation as a governing force is useful and effective up to a certain point, beyond which it breaks down. When this point is reached, the greater the effort toward a nationalistic solution the more inevitable becomes a resort to arms or at least to the bloodless dictation of the stronger powers.

This failure of the nation as a governing force, acting alone, in the peaceful solution of essentially international questions, could be amply illustrated by discussing, for example, preferential import tariffs, export tariffs and restrictions with or without preferential features, gov-

ernment monopolies of essential raw materials, unfair competition in international trade, international electrical communications, combinations of capital in international relations, the struggle for oil, mineral, railroad, forest, waterpower, and other concessions in the economically less-advanced parts of the world, and the scramble for the territory itself where mineral and other wealth is found.

It is no solution of the world's problems to denounce these political and economic rivalries. Imperialism is in fact simply the overseas economic expression of our civilization. It furnishes many cases in which our material development has outrun the governmental organization of the world.

National power and national security from one point of view appear to be synonymous conceptions. Make the nation powerful by industrial, commercial, financial and military measures and you appear to make the nation secure. But it never works out in that way. When one nation's economic life expands and its army and navy grow strong, surrounding nations, feeling insecure, attempt either singly or in combination to become a match for this growing state and it, in turn, believing its position threatened, feels insecure. With several powerful nations seeking security by imperialistic measures the result has been uncertainty, instability, and insecurity.

Permanent peace is impossible while great nations feel insecure. Permanent national security must be sought not in temporary expedients like armaments, but in the firm establishment of a set of principles to regulate the relations, particularly the economic relations, of states.

The reign of law in international relations can be established only through the cooperation of nations. The acceptance of cooperation among nations to solve essentially international questions is a limitation of national sovereignty only in the sense that government by law is a limitation on personal liberty. Cooperation is necessary for the establishment of law in a field which is not and cannot be adequately regulated by national government acting in isolation. We shall not love our country less, or serve it less well, if we understand its place in the family of nations, and if we realize that, by adopting cooperation as the means of solving international problems, a nation gives up nothing that is really worth keeping and takes the only course that in the long run will preserve the finest features of nationality. Where nationalism fails, therefore, international cooperation must begin.

International government, it should be emphasized, is not a thing still to be created; it exists now and the United States is a party to it. The tendency of national control to break down as soon as it attempts to deal with essentially international questions has resulted in the negotiation of thousands of international agreements which limit the action of nations. The significance of this world treaty structure,* which is too often taken for granted, should be emphasized, for it is an admission of the principle that national security and prosperity do depend upon cooperation with—giving to and taking from—other nations. It has produced a vast network of bilateral and multilateral treaties and international arrangements. Nations, in thousands of treaties, have,

*U. S. Tariff Commission, "Handbook on Commercial Treaties."

under the guidance of self-interest, limited their *power* in the interest of their *security*.

In addition to this body of treaty law, nations are regulated by a system of *common international law* which is enforced in the courts of the United States.*

The problem, in general then, is not the *creation* but the *perfecting* of international government, and the practical question is how "America's voice can be made to count among the nations for peace and for the future welfare and integrity of the United States."

THE SCOPE OF THE PLAN

THIS PLAN PROVIDES THE MEANS OF EFFECTIVE AMERICAN CO-OPERATION WITH OTHER NATIONS IN PROMOTING THE TENDENCIES TOWARDS:

THE CODIFICATION OF EXISTING AND THE ENACTMENT OF NEW SUBSTANTIVE INTERNATIONAL LAW THROUGH NEGOTIATION IN CONFERENCES AND SUBSEQUENT RATIFICATION. (See page 91, *Conferences.*)

THE ADMINISTRATION OF INTERNATIONAL LAW THROUGH AGENCIES ESTABLISHED BY NEGOTIATION AND SUBSEQUENT RATIFICATION. (See page 97, *International Bureaus, Councils, or Commissions.*)

THE INTERPRETATION AND CONSTRUCTION OF INTERNATIONAL LAW IN THE WORLD COURT. (See page 101, *The World Court.*)

A practical plan should not outline a Utopian structure of world government but rather a process by which

*See Appendix, Note 1.

the above tendencies may be advanced. Its acceptability to the American people will be increased if it is based, as is this plan, on accepted American precedents.

World government, like any other, must be a slow, gradual growth. International schemes with too much finality and with attempted predetermination of issues are likely to fail. The English-American common law is the product of centuries. The principles of Anglo-Saxon constitutional government were not born full-fledged. International government must have time through experience and precedent to weave itself into the fabric of the world's life.

THE INITIATION OF THE PLAN REQUIRES:

THE SIGNING AND RATIFICATION BY THE UNITED STATES OF THE PROTOCOL ESTABLISHING THE PERMANENT COURT OF INTERNATIONAL JUSTICE, ACCEPTING AS COMPULSORY IPSO FACTO AND WITHOUT SPECIAL CONVENTION THE JURISDICTION OF THE COURT.

THE ENACTMENT OF A LAW OR LAWS BY THE CONGRESS OF THE UNITED STATES WITH THESE SIX PROVISIONS:

1. PROVISION ENABLING THE UNITED STATES TO HAVE "REPRESENTATION" ON AND "PARTICIPATION" IN ANY BODY, AGENCY OR COMMISSION AUTHORIZED BY THE AMERICAN-GERMAN TREATY OF AUG. 25, 1921, BUT PREVENTED BY THE SENATE RESERVATION.* IN THUS CARRYING OUT THE RESERVATION CONGRESS SHOULD LAY DOWN THE CONDITIONS OF PARTICIPATION AND PROVIDE THAT REPRESENTATION SHOULD BE BY AND WITH THE ADVICE AND CONSENT OF THE SENATE.

*See Appendix, Note 2.

2. EXPRESSLY GIVING THE ASSENT OF THE UNITED STATES† TO CO-OPERATION WITH OTHER NATIONS IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE II OF THE AMERICAN-GERMAN TREATY OF AUG. 25, 1921‡ TO THE EXTENT (AND NO FURTHER) OF AUTHORIZING THE PRESIDENT, IF AND WHEN IT WILL IN HIS JUDGMENT "COUNT AMONG THE NATIONS FOR PEACE AND FOR THE FUTURE WELFARE AND INTEGRITY OF THE UNITED STATES," TO APPOINT OFFICIAL DELEGATES TO ANY CONFERENCE CONDUCTED UNDER THE AUSPICES OF THE LEAGUE OF NATIONS, AND TO APPOINT, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, REPRESENTATIVES ON ANY COMMISSION OR AGENCY UNDER THE LEAGUE OF NATIONS (FOR EXAMPLE, THE MANDATES COMMISSION).

The above-mentioned Senate reservation, for example, prevents official representation on the Reparations Commission, but the United States was represented by an "observer." The United States has not *expressly assented* to cooperation through the League of Nations under Article II, above-mentioned, but it has appointed "observers" to the Opium and Customs Formalities Conferences under the auspices of the League of Nations.

Granting such authority to the President would not amount to joining the League of Nations, or to accepting its political and economic obligations in their entirety. It would, however, open the door for cooperation with the League of Nations *in particular cases.* The United States would assume no obligations in advance of a particular participation and would then determine,

†See Appendix, Note 3. ‡See Appendix, Note 4.

in the light of the conditions at the time, how and upon what terms it would participate, if at all. If and when, however, it was determined to co-operate with other nations through the League of Nations organization, the United States would then participate officially and with full responsibility on the particular issue under consideration.

3. AUTHORIZATION TO THE PRESIDENT TO CALL OR TO PARTICIPATE IN, FROM TIME TO TIME OR PERIODICALLY, REGIONAL OR WORLD CONFERENCES,* WITH DEFINITE AGENDA, TO CONSIDER METHODS OF REMOVING CAUSES OF RIVALRY, ILL-WILL, AND WAR AMONG THE PEOPLES OF THE EARTH AND TO ESTABLISH IN REGIONS, OR WITH RESPECT TO SUBJECTS IN THE AGENDA, "A WORKABLE BASIS OF CO-OPERATION AMONG THE NATIONS OF THE EARTH."

4. DECLARATION THAT THE POLICY OF THE UNITED STATES IS TO PARTICIPATE IN SUCH CONFERENCES. THESE CONFERENCES WOULD FALL INTO TWO CLASSES:

(*a*) EMERGENCY CONFERENCES TO MEET ACUTE SITUATIONS WHICH THREATEN WORLD PEACE. FOR EXAMPLE:

(1) The proposed law should declare it to be the policy of the United States, when a crisis threatened to precipitate a war, to unite with other nations in a conference to preserve peace, using the League of Nations' organization or not as the case might require. In other words, we would declare our willingness to adopt for the entire world the principle of conferences accepted by the United States in the Four Power Treaty† for the Pacific Basin.

(2) An economic conference on reparations would

*See statement by Senator Borah, Appendix, Note 5.
†For Article I of the treaty, see Appendix, Note 6.

fall in this category.† Europe and America are today as two men suffering from a common evil, which singly neither can remedy, but of which they can rid themselves by cooperation. The economic life of the world is so inter-related that the United States cannot ignore entirely the serious situation created in Europe by unbalanced budgets, depreciated currency, languishing industries and unproductive expenditures for armaments. When one part of the world fails to produce and to carry its normal share of the world's economic burden, *the rest of the world pays.*

(3) The Tacna-Arica Conference, initiated by the United States, is another precedent for the use of the conference method to adjust an acute international situation.

(*b*) GENERAL PERIODIC CONSTRUCTIVE CONFERENCES TO DEAL WITH THE NORMAL RELATIONS OF STATES AND TO REMOVE THE CAUSES OF WAR BY EXTENDING INTERNATIONAL LAW TO SUBJECTS NOT REGULATED TODAY BY ACCEPTED INTERNATIONAL PRINCIPLES. Such conferences should, among other things, provide in their agenda for these measures:

(1) The defining and codifying of the existing international law of peace.

(2) The enactment *through negotiation and subsequent ratification* of new substantive international law (and, if and when necessary, the establishment of bureaus, councils, or commissions to investigate and publish information and in clearly defined areas and with proper safeguards to make findings and recommendations) with respect to such subjects as these: Interna-

†See statement by Secretary of State Hughes, Appendix, Note 7.

tional commercial policy,* conservation of world resources,† and international electrical communications.

(3) After these and similar causes of international rivalry and of the building of armaments have been considered and regulations and guarantees agreed to, then there should follow a disarmament conference or at least conferences to limit progressively international armaments.

5. CREATION OF A PEACE COUNCIL, ANALOGOUS TO THE COUNCIL OF NATIONAL DEFENSE, WITH AN ADEQUATE STAFF AND WITH THE SECRETARY OF STATE AS CHAIRMAN AND WITH THE CHAIRMAN AND RANKING MINORITY MEMBERS OF THE FOREIGN RELATIONS COMMITTEE OF THE SENATE AND OF THE FOREIGN AFFAIRS COMMITTEE OF THE HOUSE AS EX-OFFICIO MEMBERS, TO ADVISE CONCERNING THE FOREIGN POLICY OF THE UNITED STATES AND TO CONSIDER AND PROPOSE AGENDA FOR INTERNATIONAL CONFERENCES.

Advantages: The Peace Council will:

Tend to restore that close cooperation between the Executive and Legislative branches of our government which the Founders of the Republic contemplated.‡

Help to assure that pledges made by the Executive in treaty negotiations will be ratified by the Senate and approved, when necessary, by Congress (e. g., when funds must be appropriated).

Tend to eliminate party politics from foreign affairs. Containing representatives of both parties, the Peace

*See statement by Secretary of State Hughes, Appendix, Note 8.
†See Appendix, Note 14.
‡See Hayden, R.: The Senate and Treaties, 1920.

Council should contribute toward the presentation of a united front in our policy toward the rest of the world. The World War Debt Commission is a precedent on this point.†

Create a definite responsibility to look ahead and to plan constructively for the removal of the causes of war and for the preservation of the peace of the world.

6. PROVISION (ALTHOUGH TECHNICALLY UNNECESSARY) THAT NO TREATY OR INTERNATIONAL STATUTE ADOPTED BY ANY CONFERENCE SHALL BE BINDING UPON THE UNITED STATES UNTIL RATIFIED BY THE SENATE (AND IF NECESSARY, APPROVED BY CONGRESS).

This plan is submitted to meet at least these two tests of practicability:

(*a*) *It will not plunge the United States into European politics nor bind us to use our military or economic power in any unforeseen contingencies.* It will, however, free our hands so that we can do our "share in preventing war and in establishing a workable basis of cooperation among the nations of the earth." It is not in opposition to, or a substitute for, the League of Nations. It recognizes the indisputable fact, however, that millions of Americans, rightly or wrongly, who are in favor of helping to establish world peace, are not in favor of accepting wholesale and for an indefinite future the obligations of the League of Nations as now organized and run. It leaves the door open for the United States to cooperate in the League organization in *particular* cases where *in the judgment of the United States* we can be helpful. It preserves for us the advantages of our geographic and economic position and thereby makes

†See Appendix, Note 9.

more effective our action when we do act. It assumes none of the burdens of Europe's past failures but it says that for the present, and in the future the United States will play its part in organizing the common life of the world. *It satisfies the deep-seated opposition in the United States to commitments of our power, military or economic, in advance to unknown contingencies.*

(*b*) Equally important is the fact that this plan supplements the League of Nations at its weakest point. It is notorious that the League, although doing very useful work, is not an effective medium of cooperation on the serious disputes which threaten the peace of the world. The plan outlined above is less rigid than the League and can be adapted, once it is declared to be the *general policy* of the United States, to meet any problem that threatens the peaceful relations of states.

CONFERENCES

A. Effective American cooperation with other nations in the codification and creation of substantive international law can be advanced by the further extension of the principle of conference which has been recognized as a method of cooperation many times in the foreign relations practice of the United States.

1. The United States has participated officially in many conferences dealing with technical, legal and economic questions, e.g., conferences dealing with postal matters, industrial property, rules of navigation, the control of narcotic drugs, fisheries and submarine cables.

2. The United States has participated actively in conferences dealing with the broader subjects of world

relationships, e. *g.*, the Berlin Conference of 1884–5 (but did not subsequently ratify the convention); both of the Hague Conferences;* the Algeciras Conference (1906). The United States took the initiative in calling the Conference on the Limitation of Armaments (1921-2), and in the Four Power Treaty agreed to the general principle of conference.† It also took the initiative in calling a conference of the Central American States (1922-3).

3. *International Conferences of American States* (Pan American Conferences), in which the United States has been an active participant, have been effective agents of international cooperation among the nations of the Americas. They have tended to create and conserve the will to peace. These conferences meet periodically. Being a law unto themselves each conference determines the place and suggests the time of meeting for the subsequent conference.‡

B. Added testimony to the value of conferences is found in the conferenecs of the British Empire, which have been held periodically since 1887. These conferences, now an institution, have provided for periodic meetings.§ To them the nations which make up the British Empire (they are, in fact, autonomous states) send delegates, usually their premiers. The British Empire is a vast example of successful international government based on conferences. More varied interests, both racial and economic, would be difficult to

*Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907, Edited by James Brown Scott, Director, New York, Oxford University Press.
†See Appendix, Note 6. ‡See Appendix, Note 10.
§See Appendix, Note 11.

find than those of Great Britain, India, New Zealand, South Africa, Canada and Australia. And the flexible method of conference has enabled the Empire to work out in cooperation its common purpose.

C. A few examples will illustrate how the principle of conference may be applied in the foreign policy of the United States. From the very nature of the case, little can be said concerning emergency conferences, but the agenda of periodic or constructive conferences can be illustrated. It is in preparing and considering these that the Peace Council could do most effective work.

1. President Harding, in his address on April 24, 1923, advocated "voluntary conference of nations out of which could be expected a clarified and codified international law to further assure peace under the law, and bring nations that understanding which is ever the first and best guarantor of peace." A conference should be called to reduce to official form the rules of law (both treaty law and common international law) which are now accepted by civilized nations.

2. *An international conference on commercial policy* is desirable and items such as the following should appear on its agenda:

The form, scope and interpretation of the most-favored-nation clause in commercial treaties.

Unfair methods of competition* and combination in international trade.

Equal opportunity of access† to the raw materials and fuels of the world, particularly those found in colonial and other undeveloped areas.

*See Appendix, Note 12.
†See Appendix, Note 13.

Equal opportunity of access to markets, frequently defeated by tariff discriminations, and other forms of preference and trade monopoly.

Equal opportunity for the investment of capital in the development of economically backward parts of the world.

These agenda would raise for discussion the fundamental economic conflicts between states which contribute to modern war. An agreement concerning the most-favored-nation clause and the principle of the open door would tend toward the establishment of commercial equality of treatment which must be the basis of harmonious international relations.

These agenda would also lead to a further amplification and definition* of the principle of the open door as it applies to both inbound and outbound trade. It would provide rules for the exploitation of the essential raw materials of the earth, for the prevention of monopolistic control of these raw materials by governments or by national groups supported by governments, and it would contribute to the regulation of concessions and financial operations in the economically less-advanced parts of the world.

At such a conference, it should be frankly recognized that national governments in some cases operate through private companies, and private companies at times operate through governments. In other words, government is at times thrown into the scale in favor of commercial and financial enterprise and commercial and financial enterprise is used to further political aims.

*See Proceedings of Mining and Metallurgical Society, November 15, 1921, Bulletin 151.

3. Following, or perhaps as part of, a conference on commercial policy, there should be held a *world conference on the conservation of natural resources.* Instructions to invite the nations to such a conference were issued to American diplomatic officers abroad during the Roosevelt Administration,* but the conference was not held.

4. A subject of large international importance which should be considered in a world conference is *electrical communications.* In Paris in 1919, the five Allied and Associated Powers agreed to call "An International Congress to consider all international aspects of communications by land telegraphs, cables, or wireless telegraphy" with the view to providing "the entire world with adequate facilities of this nature on a fair and equitable basis." A preliminary International Communications Conference was held in Washington in 1920. It was preparatory to a world conference which will consider the adoption of rules for the regulation of this important international activity. The proposal has been made that an International Electrical Communications Union be established, analogous to the Postal Union.†

D. General observations on conferences:

1. The objection may be urged that conferences are difficult to convene and that as a result they are usually not called until a serious crisis has arisen, at which time it is too late to do anything constructive. But the Hague Conferences of 1899 and 1907, and the Arms Conference of 1921 are notable examples of nations in

*See Appendix, Note 14 (Cf. "Foreign Relations of the United States, 1909" pages 1-3).

†Baker, Ray Stannard: Woodrow Wilson and World Settlement, Vol. 2, p. 485.

time of peace legislating for the purpose of maintaining peace. The objection that nations are reluctant to confer is more apparent than real. The difficulty is not with conference but with conference *on vital issues.* The reluctance will not be overcome by the wholesale adoption of machinery which in time of need is not used. The Genoa Conference was outside the League of Nations and the Italian-Greek affair was not settled by resort to the League's machinery. To convene a conference is no more difficult than to bring before a permanent international organization a *vital* issue for effective decision. Furthermore, if the principle of conference is established as a part of the general policy of the United States, as it could be by an act of Congress, the tendency will be to resort to it more and more in the discussion of vital international issues.

2. A contrary fear is that if the principle of conference is recognized formally, our government will rush too rapidly into international participation. But a President and his Secretary of State will not proceed with a conference until conversations with other governments and the advice of the Peace Council give some promise of success both in negotiation and in ratification.

3. A third objection that may be made is that occasional conferences do not meet the needs of world government, since the processes of all government are continuous. But even in domestic government *legislation* is not continuous. In international affairs, conferences, like legislative bodies in domestic affairs, can legislate from time to time as the need may arise. On the other hand, administration and adjudication are the

continuous processes of government. In the plan of international government which is here submitted, these processes *are continuous.*

4. Delegates to conferences appointed *at the time when the need arises* are likely to be both representative of their governments and qualified to handle the particular problems specified on the conference agenda. That they be representative is essential in connection with effectuating subsequent ratification. That they be qualified is necessary when the complex technical character of international subjects is considered.

5. The advantage of international conferences may be merely that which results from nations assembling for a frank discussion of their common problems, or they may result in multilateral treaties. General conferences discourage mere bargaining in which the stronger state gets the concessions it can demand and they encourage the determination of issues on their merits. The Berlin Conference, the Algeciras Conference, and the Limitation of Armaments Conference indicate that conference by many nations tends to eliminate the selfish interests of a few powers in favor of the general world interest.

INTERNATIONAL BUREAUS, COUNCILS OR COMMISSIONS

A. Substantive law is not sufficient. Effective methods of administration must be devised. Even when rules or principles have been agreed upon by nations, extreme views of national sovereignty have often prevented the setting up of international machinery for

their effective administration. This clear necessity should also be faced in future world conferences.

1. The nature of this particular problem is obvious to us in America from our experience with the regulation of commerce between states through Federal agencies. The powers of the Interstate Commerce Commission, for example, grew slowly, but, once developed, their exercise has settled disputes between states which, if they had arisen between nations under the present anarchistic conditions of international relations, might have led to war.

2. When the Nine Power Treaty was under consideration by the Arms Conference, the necessity for administration was recognized. This treaty not only laid down a definite principle concerning the open door, but it provided that China should "not exercise or permit unfair discrimination of any kind" on her railways. The conference then, desiring "to provide a procedure" for dealing with these questions, resolved "to establish in China a Board of Reference to which any questions arising in connection with the execution of the aforesaid Articles may be referred for investigation and report."*

3. In the Americas the Pan American Union† and the International Joint Commission‡ are examples of international co-operation.

4. An effort to deal internationally with bounties

*See Report of the Conference on the Limitation of Armament, Washington, November 12, 1921-February 6, 1922.

†See Appendix, Note 15.

‡See United States Treaties, Vol. III, p. 2607, Convention Concerning Boundary Waters between the United States and Canada, signed 11 January, 1909.

and consequent dumping—an unfair method of foreign trade competition—was made in the Brussels Sugar Convention of 1902 to which the leading European countries were signatories. The parties agreed to suppress their bounties, direct or indirect, on the production or exportation of sugar, and to penalize similar bounties, where levied, by the imposition of countervailing duties equal to the bounties. A commission with administrative functions was created to make effective the provisions of the convention.

5. Effective administrative work is being done by the League of Nations through its various commissions and bureaus. There are, for instance, the purely administrative organizations for the Saar and for Danzig. But perhaps more important in the development of effective international government are such non-political agencies as the Financial and Economic Commission, the Advisory Organization on Transit and Communication, the International Labor Office, and the Mandates Commission.*

B. These precedents suggest lines of further development which may be considered by the Peace Council to determine how far they are consistent with American interests and world peace.

1. The first obviously desirable function of international commissions or bureaus is investigation. The various subjects of international co-operation considered by conference will require investigation both before and after conference action. Commissions might be established to furnish information on foreign investments in economically backward countries, on unfair methods

*See Appendix, Note 16.

of international competition and monopoly and on electrical communication between nations.

An international commission, established, under a treaty defining its powers, to deal with disputes over raw materials and fuels, could assist in maintaining equal opportunity to all nations in the exploitation of resources in the economically less-advanced parts of the world (e.g., oil), in the adjustment of disputes over price in cases where the control of a raw material is virtually monopolistic (e.g., rubber and nitrates), and in the conservation of natural resources in which civilization has a vital interest (e.g., manganese and tungsten).

2. The development of international regulation must necessarily be gradual. Commissions might be given semi-judicial or administrative powers to deal with subjects with which, as experience has shown, the legal machinery of a court can not successfully deal. For example, it has been found in the United States that unfair methods of competition as offenses against the public can be more successfully prevented by the Federal Trade Commission than by the Federal Courts.

3. Publicity will usually be sufficient to enforce the decisions of commissions. The International Chamber of Commerce, for example, relies chiefly on opinion in the business community for the enforcement, between citizens of different nations, of its awards under its admirable rules for the arbitration of commercial disputes.* The Mandates Commission of the League of Nations has found publicity a powerful force in getting

*International Chamber of Commerce—Rules of Conciliation (Good Offices) and Arbitration (Oct. 21, 1922), Brochure No. 21.

its suggestions carried out. If, however, it seems desirable to go further, it might be provided that the commissions' decisions be enforced through some national body in the country of which the offending party is a resident; for example, a decision against an American corporation guilty of unfair competition in international trade might be enforced through the Federal Trade Commission.

4. If the decisions of a commission involve political issues of importance, their enforcement should be suspended and they should be referred for disposition to the next conference of the powers, which alone would have power to dispose of international *political* questions.

THE WORLD COURT

A. Finally, in addition to provisions for legislation (by conference and ratification) and administration through commissions of international law, there should be provisions for the interpretation and construction of the law. In this department of cooperation the American precedents are conclusive and need not be enumerated.* From the beginning of American history our Government has advocated and practiced the judicial settlement of disputes.† Most of the nations today, except the United States, have adhered to the World

*Moore, J. B.: History and Digest of International Arbitrations.

†Moore, John Bassett, Professor of International Law at Columbia University, and a Judge of the Permanent Court of International Justice, says: "... arbitration is and always has been considered in international law as a judicial process." [International Conciliation, No. 186 (May, 1923) 380].

Court protocol, and the United States should, in the near future, logically accept this obligation.‡

B. The United States should not join the World Court without determining to cooperate with other nations through conferences in the making of new international law. A court must take only recognized principles of international law and treaty provisions (e.g., most-favored-nation principle) and upon them extend the rule of law.

CONCLUSION

The suggestions which have been made concerning international cooperation are in line with the best American tradition. They have in almost all cases been illustrated from American precedents. If carried out, they would tend to remove the causes of war. Until these or similar steps are taken toward effective international cooperation, it will be necessary for nations to maintain their military organizations. Armaments are bases of security until something more effective is established. The choice before the world is between force and justice established by law. The more effective the international machinery of justice becomes, the less belief will there be in dependence upon force. The more cooperation is practiced, the less will force be resorted to. But until the nations cooperate to build up and perfect international government, they will seek their security through armies and navies. Nations still, unfortunately, understand best the language of power. Armaments are in-

‡For advisory opinions and judgments of the Court see Collections of Advisory Opinions and Collection of Judgments of the Permanent Court of International Justice.

separable from the policies which they support. Nations will not give up their armies and their navies until they are given security in some other form of guarantee. War and preparation for war are inevitable products of causes operating in an unregulated, anarchistic world.

The choice between force and international cooperation, however, is more apparent than real. Nowhere does nationalism break down more disastrously than in its use of force. War and armaments do not provide security. Modern war is about to destroy the agency which it seeks to preserve, namely, the nation. Those who make war must look well ahead and consider the ultimate consequences of the results that follow upon war—the destruction of capital, the draining of funds from the country, the dislocation of the delicate credit machinery of the modern world, the depreciation of currency, the disorganization of markets, the destruction of purchasing power, and the lowering of the morale of whole peoples.

The plan here submitted recognizes that in international, perhaps even more than in domestic, matters our social and political organization has not kept pace with our technical development. We are suffering today from a too rapid advance in science and in commercial and industrial organization without a corresponding advance in social and governmental organization, and if the organization of the world's common life is to catch up and if we are to be secure and prosperous, the United States must do its share to achieve and preserve world peace.

APPENDIX

NOTE 1. The U. S. Supreme Court in The Paquete Habana (175 U. S. 677, 700, 1899) says:

International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction, as often as questions of right depending upon it are duly presented for their determination. For this purpose, where there is no treaty, and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations; and, as evidence of these, to the works of jurists and commentators, who by years of labor, research and experience, have made themselves peculiarly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is. *Hilton v. Guyot*, 159 U. S. 113, 163, 164, 214, 215.

NOTE 2. The clause of ratification of the American-German Treaty of Aug. 25, 1921, reads in part as follows:

"*Resolved* . . . that the United States shall not be represented or participate in any body, agency, or commission, nor shall any person represent the United States as a member of any body, agency, or commission in which the United States is authorized to participate by this treaty, unless and until an act of the Congress of the United States shall provide for such representation or participation."

NOTE 3. The U. S. Supreme Court has said (*La Abra Silver Mining Co. v. United States*, 175 U. S., 423, 460)—

It has been adjudged that Congress by legislation, and so far as the people and authorities of the United States are concerned, could abrogate a treaty made between this country and another country which had been negotiated by the President and approved by the Senate. *Head Money cases*, 112 U. S. 580, 599; *Whitney v. Robertson*, 124 U. S. 190, 194; *Chinese Exclusion case*, 130 U. S. 581, 600; *Fong Yue Ting v. United States*, 149 U. S. 698, 721.

NOTE 4. Article II of the American-German Treaty of August 25, 1921, reads:

With a view to defining more particularly the obligations of Germany under the foregoing Article with respect to certain provisions in the Treaty of Versailles, it is understood and agreed between the High Contracting Parties:

(1) That the rights and advantages stipulated in that Treaty for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in Section 1, of Part IV, and Parts V, VI, VIII, IX, X, XI, XII, XIV, and XV.

The United States in availing itself of the rights and advantages stipulated in the provisions of that Treaty mentioned in this paragraph will do so in a manner consistent with the rights accorded to Germany under such provisions.

(2) That the United States shall not be bound by the provisions of Part I of that Treaty, nor by any provisions of that Treaty including those mentioned in Paragraph (1) of this Article, which relate to the Covenant of the League of Nations, nor shall the United States be bound by any action taken by the League of Nations, or by the Council or by the Assembly thereof, unless the United States shall expressly give its assent to such action.

(3) That the United States assumes no obligations under or with respect to the provisions of Part II, Part III, Sections 2 to 8, inclusive, of Part IV, and Part XIII of that Treaty.

(4) That, while the United States is privileged to participate in the Reparation Commission, according to the terms of Part VIII of that Treaty, and in any other Commission established under the Treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

(5) That the periods of time to which reference is made in Article 440 of the Treaty of Versailles shall run, with respect to any act or election on the part of the United States, from the date of the coming into force of the present Treaty.

NOTE 5. Senator Borah is reported to have made the following observation (Washington Evening Star, October 30, 1923):

While we fought the League of Nations because we thought it a political alliance, we never intended that America should refrain from conferring with other powers about a world situation. Why,

we did it in the Moroccan situation, and we have always stood ready to give our advice. But it's one thing to enter a political alliance and quite another to discuss economic questions. There seems to be an idea that we cannot have an international economic conference without entering into political alliances or talking about cancellation of debts. That's all wrong. We can always confer, and we never need go beyond conference if we do not desire to do so. But we cannot refuse to confer, especially when the situation concerns the markets of the United States so vitally.

NOTE 6. Article I of the TREATY BETWEEN THE UNITED STATES OF AMERICA, THE BRITISH EMPIRE, FRANCE AND JAPAN RELATING TO THEIR INSULAR POSSESSIONS AND INSULAR DOMINIONS IN THE REGION OF THE PACIFIC OCEAN (Conference on the Limitation of Armament, Washington, Nov. 12, 1921, to Feb. 6, 1922, p. 1614) provides:

If there should develop between any of the High Contracting Parties a controversy arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy and is likely to affect the harmonious accord now happily subsisting between them, they shall invite the other High Contracting Parties to a joint conference to which the whole subject will be referred for consideration and adjustment.

NOTE 7. The text of the aide memoire presented by Secretary Hughes on October 15, 1923, to the British embassy, in reply to the communication of the British chargé d'affaires of October 13, contains this sentence:

The government of the United States is therefore entirely willing to take part in an economic conference, in which all the European allies chiefly concerned in German reparations participate, for the purpose of considering the questions of the capacity of Germany to make reparation payments and an appropriate financial plan for securing such payments.

NOTE 8. Mr. Hughes at Montreal, Canada, on Sept. 4, 1923, after referring to the Arms Conference, said:

I believe that we shall be able at no distant day to keep within reasonable limits some of our pressing economic rivalries by fair international agreements in which the self-interest of rivals will submit to mutual restrictions in the furtherance of friendly accord.

NOTE 9. The membership of the World War Foreign Debt Commission is as follows: Chairman—Andrew W. Mellon; Charles E. Hughes; Herbert Hoover; Reed Smoot; Theodore E. Burton; Secretary—Eliot Wadsworth; Richard Olney; and Charles R. Crisp. (The last two are Democrats.)

NOTE 10. The Fifth International Conference of American States, which met at Santiago, Chile, adopted on May 1, 1923, the following resolutions:

1. To designate as the place of meeting of the Sixth International Conference of American States, the city of Havana, capital of the Republic of Cuba.

2. To recommend to the Government of Cuba and to the Governing Board of the Pan American Union, that the next Conference assemble as soon as possible, and, in any case, within a period of five years following the close of the present Conference.

NOTE 11. Several of the conferences of the British Empire have adopted resolutions on the time of meeting. The following is from the proceedings of the third conference (1902):

That it would be to the advantage of the Empire if conferences were held, as far as practicable, at intervals not exceeding four years, at which questions of common interest affecting the relation of the mother country and His Majesty's dominions over the seas could be discussed and considered as between the Secretary of State for the Colonies and the prime ministers of the self-governing colonies. The Secretary of State for the Colonies is requested to arrange for such conferences after communication with the prime ministers of the respective colonies. In case of any emergency arising upon which a special conference may have been deemed necessary, the next ordinary conference to be held not sooner than three years thereafter. Colonial Conference, 1907, Sessional Paper No. 144, 6-7 Edward VII., A. 1907, p. 3.

At the Conference in 1907, it was also resolved:

That it will be to the advantage of the Empire if a Conference, to be called the Imperial Conference, is held every four years, at which questions of common interest may be discussed and considered as between His Majesty's Government and His Governments of the self-governing Dominions beyond the seas. The Prime Minister of the United Kingdom will be *ex officio* President, and the Prime Ministers of the self-governing Dominions *ex officio*

members, of the Conference. The Secretary of State for the Colonies will be an *ex officio* member of the Conference and will take the chair in the absence of the President. He will arrange for such Imperial Conferences after communication with the Prime Ministers of the respective Dominions.

Such other Ministers as the respective Governments may appoint will also be members of the Conference—it being understood that, except by special permission of the Conference, each discussion will be conducted by not more than two representatives from each Government, and that each Government will have only one vote. (Minutes of Proceedings of the Colonial Conference, 1907, Constitution of the Imperial Conference, Cd. 3523, a 3.)

NOTE 12. In all advanced industrial countries, domestic law protects competitors from unfair practices by others. In the United States not only does a private remedy exist in both state and Federal courts, but unfair methods of competition are made an offense against the public. They are prohibited by both the Sherman Anti-Trust Act and the Federal Trade Commission Act. The Tariff Act of 1922 also provides a remedy against "unfair methods of competition and unfair acts in the importation of articles into the United States." But unfair methods of competition are practised also in international trade, particularly in countries where the local law provides no adequate remedy. An attempt to correct this evil in a very limited field was made in the Industrial Property Convention, under which twenty-nine independent nations and some of their colonies separately agree each to assure to the nationals of the others "an effective protection against unfair competition." This and similar provisions, however, have proved in practice to be inadequate. The entire subject of unfair competition should be considered in a world conference and a beginning be made toward developing that part of an international commercial code.

NOTE 13. The powers at the Washington Arms Conference agreed "with a view to applying more effectively the principles of the Open Door or equality of opportunity in China" that they would not seek or support their respective nationals in seeking—

(*a*) any arrangement which might purport to establish in favour of their interests any general superiority of rights with respect to

commercial or economic development in any designated region of China;

(*b*) any such monopoly or preference as would deprive the nationals of any other Power of the right of undertaking any legitimate trade or industry in China, or of participating with the Chinese Government, or with any local authority, in any category of public enterprise, or which by reason of its scope, duration or geographical extent is calculated to frustrate the practical application of the principle of equal opportunity. (TREATY BETWEEN THE UNITED STATES OF AMERICA, BELGIUM, THE BRITISH EMPIRE, CHINA, FRANCE, ITALY, JAPAN, THE NETHERLANDS AND PORTUGAL RELATING TO PRINCIPLES AND POLICIES CONCERNING CHINA, Article III, p. 1625, Limitation of Armament.)

NOTE 14. The Conference of Governors which was held in the White House, Washington, May 13-15, 1908, discussed the subject of conservation of natural resources (House of Representatives Document No. 1425, 60th Congress, 2nd Session). One of its results was the creation by President Roosevelt of the National Conservation Commission, the report of which was submitted to Congress, January 22, 1909 (Congressional Record, Volume 43, Part 2, p. 1273).

The North American Conservation Conference was an outgrowth of the Conference of Governors. It was held in February, 1909. The invited governments were Mexico, Dominion of Canada and Newfoundland. This conference suggested that the President of the United States invite all nations to meet in a *World Conservation Congress.* Its declaration of principles was filed by the Chairman of the Conference, Mr. Pinchot, and is published as appendix II to C. R. Van Hise's "The Conservation of Natural Resources" (1910) and concludes with these words:

The conference of delegates, representatives of the United States, Mexico, Canada, and Newfoundland, having exchanged views and considered the information supplied from the respective countries, is convinced of the importance of the movement for the conservation of natural resources on the continent of North America, and believes that it is of such a nature and of such general importance that it should become world-wide in its scope, and therefore suggests to the President of the United States of America that all nations should be invited to join together in

conference on the subject of world resources and their inventory, conservation, and wise utilization.

A World Conservation Congress was the subject of an invitation on the part of the United States in February, 1909. The instructions of the Department of State to American diplomatic officers abroad read as follows (Foreign Relations of the United States, 1909, pp. 1-3):

CONSERVATION OF NATURAL RESOURCES

Department of State,
Washington, February 19, 1909.

To certain diplomatic officers abroad.

Sir: There is now assembled in Washington, in response to the invitation of the President, a conference of representatives of the United States of Mexico and of the Dominion of Canada to meet the representatives of the United States of America for the purpose of considering the common interests of the three countries in the conservation of their natural resources. The cordiality with which the neighboring Governments accepted the invitation is no less an augury of the success of this important movement than is the disposition already shown by the conference to recognize the magnitude of the question before them. While recognizing the imperative necessity for the development and use of the great resources upon which the civilization and prosperity of nations must depend, the American Governments realize the vital need of arresting the inroads improvidently or unnecessarily made upon their natural wealth. They comprehend also that as to many of their national resources more than a merely conservative treatment is required; that reparatory agencies should be invoked to aid the processes of beneficent nature, and that the means of restoration and increase should be sought whenever practicable. They see that to the task of devising economical expenditure of resources, which, once gone, are lost forever, there should be superposed the duty of restoring and maintaining productiveness wherever impaired or menaced by wastefulness. In the northern part of the American hemisphere destruction and waste bring other evils in their train. The removal of forests, for instance, results in the aridity of vast tracts, torrential rainfalls break down and carry away the unprotected soil, and regions once abundant in vegetable and animal life become barren. This is a lesson

almost as old as the human race. The older countries of Europe, Africa, and the Orient teach a lesson in this regard which has been too little heeded.

Anticipating the wide interest which would naturally be aroused in other countries by the present North American Conference, the President foresaw the probability that it would be the precursor of a world congress. By an aide-memoire of the 6th of January last the principal Governments were informally sounded to ascertain whether they would look with favor upon an invitation to send delegates to such a conference. The responses have so far been uniformly favorable, and the Conference of Washington has suggested to the President that a similar general conference be called by him. The President feels, therefore, that it is timely to initiate the suggested world conference for the conservation of national resources by a formal invitation.

By direction of the President, and with the concurrence of Her Majesty the Queen of the Netherlands, an invitation is extended to the Government of ..... to send delegates to a conference to be held at The Hague at such date as may be found convenient, there to meet and consult the like delegates of the other countries, with a view to considering a general plan for an inventory of the natural resources of the world and to devising a uniform scheme for the expression of the results of such inventory to the end that there may be a general understanding and appreciation of the world's supply of the material elements which underlie the development of civilization and the welfare of the peoples of the earth. It would be appropriate also for the conference to consider the general phases of the correlated problem of checking and, when possible, repairing the injuries caused by the waste and destruction of natural resources and utilities and make recommendations in the interest of their conservation, development, and replenishment.

With such a world inventory and such recommendations the various producing countries of the whole world would be in a better position to co-operate, each for its own good and all for the good of all, toward the safeguarding and betterment of their common means of support. As was said in the preliminary aide-memoire of January 6:

The people of the whole world are interested in the natural resources of the whole world, benefited by their conservation, and injured by their destruction. The people of every country are

interested in the supply of food and of material for manufacture in every other country, not only because these are interchangeable through processes of trade, but because a knowledge of the total supply is necessary to the intelligent treatment of each nation's share of the supply.

Nor is this all. A knowledge of the continuance and stability of perennial and renewable resources is no less important to the world than a knowledge of the quantity or the term remaining for the enjoyment of those resources which when consumed are irreplaceable. As to all the great natural sources of national welfare, the peoples of to-day hold the earth in trust for the peoples to come after them. Reading the lessons of the past aright, it would be for such a conference to look beyond the present to the future.

You will communicate the foregoing to the Government of ..... with the expression of the President's hope that we may be soon informed of its acceptance of the invitation. You will at the same time inform His Excellency that upon informal inquiry a gratifying assurance of the sympathy of the Government of the Netherlands has been received.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary of State.

NOTE 15. The Governing Board of the Pan American Union consists of the Secretary of State of the United States, Chairman *ex officio*, and the diplomatic representatives in Washington of each of the other states of the Americas.

NOTE 16. The Mandates Commission has done effective work in administration. Important among its services are the revision of the Administration of the island of Nauru and the rectification of the frontier of Ruanda. The following letter, dated July 27, 1923, from the British Colonial Office and the British Foreign Office bears on the second service:

With reference to the second paragraph of the letter from this Department (No. 34757/23) of July 24th, regarding the rectification of the Ruanda Boundary, I am directed by the Duke of Devonshire to request you to inform the Marquis Curzon of Kedleston that when the discussion of the report on the Tanganyika Territory for 1922 comes before the Permanent Mandates Com-

mission at its forthcoming session, the Honourable W. Ormsby-Gore, Parliamentary Under-Secretary of State for the Colonies, proposes to make a statement to the Commission on the following lines: That in consequence of the representations received from the President of the Council of the League of Nations in September, 1922, His Majesty's Government made enquiries as to the actual situation on the Ruanda border from the Governor of the Tanganyika Territory, and that as a result of these enquiries His Majesty's Government decided to make suggestions for the rectification of the frontier in a joint note to be addressed by His Majesty's Government and the Belgian Government to the Secretary-General of the League of Nations, that the terms of this joint Note have now been agreed between the two Governments and that it is for the Council of the League to take what action they think right on receipt of the Note. Mr. Ormsby-Gore will also intimate that the joint Note embodies a proposal to make the Kagera River the frontier between the British and Belgian spheres for a considerable portion of the boundary.

(Signed) H. J. READ,

Permanent Mandates Commission, A. 19, 1923. VI. *Geneva, Aug.* 24, 1923. *C.P.M.* 55, p. 307.

IV

WORLD COURT

AND CONTROL OF WORLD TRADE THROUGH THE WATERWAYS TO THE HIGH SEAS

BY GUTZON BORGLUM

Gutzon Borglum, sculptor and author, has always been interested in political economy. He received his art education first in California and later in Paris, where he was a friend of Rodin. Later he had a studio in London. He took an active interest in the Boer War. His chief art productions are the Mares of Diomedes in the central hall of the Metropolitan Museum, the twelve Apostles on the Cathedral of St. John the Divine, New York; the colossal head of Lincoln in the rotunda of the Capitol at Washington; the seated figure of Lincoln, and the group of forty-two figures representing the "Wars of America," at Newark, N. J.; and the Confederate Memorial at Stone Mountain. In 1918 Mr. Borglum was appointed by President Wilson special investigator of the causes for the delay in supplying American airplanes to the army in France.

IV

WORLD COURT AND CONTROL OF WORLD TRADE THROUGH THE WATERWAYS TO THE HIGH SEAS

INTRODUCTION

The plan here proposed for securing world peace recognizes the impossibility of the nations of the world, racially alien to each other, ever arriving at an agreement that would, by any possible extension of the institution agreed upon, develop a super-state. These racial conditions prevent any parallel with our own Federal constitution problem, in 1787.

Since the World War, and as a reaction against the war, we have experienced a leaning toward the principle of internationalism, but this has quickly yielded to a more pronounced nationalism than existed before the great struggle, and acquaintance with the subject of race individuality proves that organic race differences are so fundamental that they persist and determine the tendency of each individual people toward its own perfection, in spite of popular, superficial, international veneer, in spite, even, of religion and language.

We have seen the so-called Mediterranean peoples, in the last three thousand years, pass through various political and religious experiences, enduring many hundred years, and yet we see them today receding to their natural, racial bent, practically unaffected by the great re-

straining and cultural influences that should have absorbed them.

Therefore, I do not approach the World Court, here outlined, as an international development in any way, nor with any Utopian illusions, but rather regard it as a profound world necessity for the co-ordination of world law and for the establishment of judicial restraint upon greed and the insatiable acquisitiveness bred by power and unrestraint.

The inevitable contest that arises in race ascendancy expresses itself in creative superiority, in productiveness, in superior human service through crafts, law, culture—all legitimate and helpful to mankind. Not until after production, after the product becomes commerce and enters the field of trade, do we meet with the element of activity, which generates war, that is, trade and trade's need of markets.

Rivalry between crafts, professions and industries stimulates and advances civilization.

Rivalry between traders destroys values, levels and lowers civilization, destroys quality, invents adulterations, quantity production, low standardization—anything to gain, gorge and stimulate consumption. Expansion of markets, tariff walls, territorial expansion are the fostering elements of trade, resulting in force and war.

It will, therefore, be seen that the root of ancient and modern international disputes is trade, lies in economics. International economics rest on international trade, and trade is the basis of international expansion and control. Therefore, no progress toward world law and the peaceful adjustment of international differences can obtain un-

til and unless we provide for a peaceful control over that branch of human activity which fosters war.

If the above presumption is sound, it is wise and should not be difficult to drive the wedge in between this source of disaster and the national body politic and split these mercenary matters forever from national or purely domestic political affairs. Trade and securities representing trade are most sensitive, because they represent the end and aim of the majority in all nations, hence trade becomes an easy political issue, over which to hatch trouble. It is equally true, trade and credits will respond instantly to court ruling, which can immediately injure credit by even the threat of its arrest.

I realize that national honor rarely develops until the disputes of trade have passed from the trader to the politician and then by quick steps into the political machinery involving the state. It may be found invaluable that the World Court have a lower court, which could and would adjust international civil trade disputes between individuals and so accommodate and free innumerable questions before they reach the proportions of international concern. Such jurisdiction, it seems, would be welcomed by all merchants.

I am also aware that every canal, estuary or river, that could be, has been bought or stolen and fortified to better protect trade; and that our entire armament, as today represented, is not to protect Christianity and civilization, not to carry to the barbarians the Golden Rule and our culture and there protect either or both. On the contrary, the major part of our military budget is for following and protecting in foreign seas and lands

our trade. Switzerland's position offers an excellent example of a nation which confines its military impulses to the defense of its own national integrity, a position from which no self-respecting nation or individual can or will recede.

Much is written daily upon the moral obligations, in analyzing the World Court plan. It seems utterly absurd to inject racial conscience or race morals into a world tribunal. There is no such common ground even between European races.

What one race holds necessary to its very life, another hates. We must find some bridge, some common ground, on which we all meet and on this or through this reach each other's conscience, good will or sense of fairness. Negotiable property, common material values, a people's product provide this. Wealth the world over is the standard for material power and all peoples respond alike to the jeopardy of their creative force.

Further, any authority delegated to judge the merits of international controversy will stand or fall upon the power to enforce decrees. The lack of this necessary power has heretofore halted all effort for the creation of an effective world tribunal. Civilization itself rests upon its own willingness to delegate and submit to authority empowered to compel justice.

Our problem, then, is to agree upon, first this common ground on which to meet; second, an equitable method of creating a Court; and third, upon investing that Court with jurisdiction and power effective and able to *compel obedience to its decrees, without the use of arms or power to develop super-government.*

The author of the following brief draft believes his

plan does this, and further provides the only flexible force in civilization over which control can and must be established which will automatically readjust itself with the growth or shift of the centres of civilization.

The gates to the high seas hold the key to the whole situation, and it has long been clear to me, that if the gates to the world's trade could finally be established as the passageways of only peaceful peoples' business, and world commerce move under seal of the World Court and that Court be delegated the judge of what constitutes international equitable prerogatives governing international commerce, war as now understood, would become a human impossibility.

One of America's foremost Supreme Court Judges, in reviewing my draft, suggested that the trade agreement respecting the canals, rivers and estuaries leading to one or more sovereign states should extend to international commerce passing over transcontinental railroads, making it subject to the jurisdiction of the World Court.

I have been mindful of this phase, but for the purpose of brevity, have confined my discussion to the *control of commerce through the great water-gates of the world.* That principle, once accepted as the effective means of enforcing peace, will naturally extend itself to all transportation.

DRAFT OF PLAN OF WORLD COURT

AUTHORITY

Article I. I propose a World Court, delegated and empowered by the nations of the world, as the supreme

arbiter in all matters that might arise between the signatory nations, as they in agreement may determine.

REPRESENTATION

Article II. Representation in the Court shall be determined as follows: There shall be one judge allowed to each nation holding sovereign jurisdiction over an inter-ocean or inter-sea canal, as the Kiel Canal, the Dardanelles, the Suez and Panama, and the British Channel. All other judges shall be created on the basis of the annual export tonnage or annual value of the export trade of each sovereign power, as may be found most equitable, and shall be subject to readjustment every five years. The judges shall serve for terms of ten years, and the President or Chief Justice shall be elected by the Court.

Article III. Nations controlling colonial possessions shall not, by virtue of such possessions, be given extra representation, on the presumption of colonies being separate nationalities. No representation upon the Court can be conceded, to any people, who are not an independent, sovereign people, possessing original authority to sue for redress and to accept the judgment of the Court, and capable independently of obeying the Court's decrees. Large territorial possessions may constitute extensive trade with the mother country, and indirect representation will thereby be secured proportionately, through the mother country.

PROCEDURE

Article IV. The Court shall fix its own form of procedure, but in no case shall decisions in international

disputes be delayed beyond ninety days, in matters relating to commerce or trade, or beyond six months, in questions of boundaries. The decisions of the World Court shall be final, but the Court itself may receive petitions from either party to the controversy and the question of rehearing be put to the full Court. Should the full Court voting agree by a two-thirds vote, the case may be reconsidered by the full Court.

JURISDICTION

Article V. The Court shall be given full authority to seal, issue papers, stamps or certificates, or otherwise direct the marking of all cargoes, freight or merchandise, passing to the high seas and designated other than coastwise or domestic trade. All cargoes so marked shall pass free and unmolested to their destination through and within the territorial waters that lie within or adjacent to the territory of the signatories to the World Court. All nations at peace, signatories to the World Court, and against whom no official charge is pending, nor adjudged guilty of international misdemeanor, shall, *ipso facto*, have and enjoy full and equal rights of free, unhindered passage through the great channels or waterways, to and from the high seas—the Dardanelles, the Suez Canal, the Kiel Canal, the Panama Canal and all rivers and estuaries, leading to and from two or more sovereign states.

Article VI. Should any of the signatory powers violate treaty agreements or international laws accepted and adopted by them, which govern international relations within the jurisdiction of the World Court, the ag-

grieved nation, or any two nations not directly involved, may at once lay the charge before the World Court, with prayer for its prompt adjustment. The Court will in turn inform the defendant nation that it must make answer to the charge, within such time as the Court may determine.

There shall be no interference with the peaceful continuance of trade or other relations, because of any charge that may have been brought against any nation. The plaintiff nation may plead for the immediate suspension of the alleged grievance in such case and, following a preliminary hearing, a two-thirds vote of the full Court may require of the defendant nation that the alleged grievance shall be suspended pending trial.

The Court shall receive complaints against signatories from nations not members of the World Court Tribunal, but no judgments shall be rendered in such case until the plaintiff shall have become a signatory and subject to the decrees of the Court. The Court shall hear cases against nations not signatories to the World Court and judgment may be lodged and established against such nations and their commerce be stopped from the use of the water courses under the jurisdiction of the Court.

MANDATORY POWER

Article VII. The World Court shall at once proceed to hear the charge against the defendant nation and at the earliest possible date render its decision. Should the nation charged be found guilty, the Court shall render its decision accordingly and fix a time within which satisfaction shall be made to the plaintiff.

Should the defendant fail to make redress as desired within the time prescribed, that is, by payment of fines, restitution of property or territory or other adjustment prescribed by decree of the Court, the Court shall revoke all certificates issued and refuse the issuance of free passage certificates for the commerce of the defendant nation; and in such event, the defaulting nation's vessels, cargoes and inter-ocean commerce shall at once be refused clearance papers, wherever found within the territorial waters of the signatory nations, and remain in bond until the Court grants release.

The Court shall have the full support of all the signatory powers within the jurisdiction of their territory or territorial waters, and all signatory powers, *ipso facto,* with the issuance of the Court decree, shall withhold wharfage or the use of ports for embarking or discharging cargoes. No port privilege, other than anchorage, shall be extended to any nation adjudged guilty of misdemeanor, pending the Court's release.

Article VIII. The Court, resting its mandatory power upon the suspension of free passage of commerce through the above high sea gates, may at will establish representative agents at the international ports of the world, with the consent of the sovereign powers in the territorial waters so controlled.

The Court shall neither assume, nor in any way acquire, employ or use police or military power of any sort whatsoever. It shall provide and maintain swift, seagoing power boats, solely for the purpose of aiding and checking the course and conduct of trade within the

territorial waterways prescribed under the World Court agreement, and reporting upon the condition of international commerce and the observance of international trade law.

APPEALS

Article IX. Should either party in any controversy before the Court fail to appeal against the decision in such time as the Court may establish, as provided in Article IV, the judgment of the Court shall immediately become binding upon the nations concerned. Period of grace shall be fixed by the Court, at the expiration of which, should the adjudged nation remain in default, the Court shall put in effect such embargo upon the commerce of the adjudged nation as it may prescribe to rest against the nation in error. The Court shall determine such punishment, in the way of fines or indemnity, together with the interpretation of the law, which must be complied with to the satisfaction of the Court, before the embargo against a nation's commerce may be lifted.

V

THE ORGANIZATION OF SCIENTISTS FOR PEACE

BY SAMUEL PETER WILSON

Samuel Peter Wilson, a research chemist now with a Chicago firm, has been a chemist on explosives for the United States Navy, and was later placed in charge of TNT production on the Pacific coast. He has been also an instructor and professor of chemistry at the University of California, Syracuse University, and Wabash College. He is a member of the American Chemical Society.

V

THE ORGANIZATION OF SCIENTISTS FOR PEACE

Considering the innumerable causes of armed conflict between nations and the duration of time in which this has been closely interwoven with all the fabric of man's history and progress, any attempt to put a definite end to it may well seem hopelessly ambitious. Yet the desire for peace has ever been an accompaniment of war, and the growing sentiment that means other than violent can and should be found to end international disputes has coalesced to a strong and steadily increasing movement to outlaw war forever. The last years of the World War were brightened by the wide-spread belief that when it was over further holocausts would be made impossible; the idealistic programme of Woodrow Wilson strengthened that hope, which for a while, at least, seemed universal. And in the League of Nations and the World Court there seemed to lie the solution.

But so far the world has been disappointed. Eight or nine times since the establishment of the present League have covenanting nations violated in letter or spirit the provisions of their compact. France in the Ruhr, Italy in Fiume and Corfu, Spain in Tangier,—these are some of the better-known instances whereby it has been indicated that the world is still very much the same after its bath of blood, despite the League and the professions that led to its establishment. Nation after nation has

shown the same symptoms of rancorous hatred, selfish ambitions and ruthless means cloaked in the plausible sophistry whereby wars can always be justified when national honor is insulted—or national boundaries curtailed. So the confidence in the League, in the United States at least, has dwindled to a mere hope that it may eventually develop into a truly potent body whose decrees will be justly rendered and implicitly and cheerfully obeyed.

It would take too long to elaborate upon the defects of the present League, or upon its promise for the future. I assume these well-worn arguments to be familiar to the thinking public. But out of this welter of pro and con there arises the belief that reliance upon statesmen, politicians and diplomats as apostles of peace is not completely justified. We would not expect lawyers to end litigation; wherein then lies the hope that men in whose hand war, or the threat of war, is ever the strongest card will unite to eliminate that very factor? As long as national boundaries exist, as long as national rivalries continue, the rulers of nations will be forced to seek the upper hand over neighbors and competitors and will vie with each other in gaining desired ends. Their tendency will be toward shrewd but peaceful bargaining, but ever with the thought of force as a last trump. The various disarmament conferences of recent years illustrate this. Only mild resistance was offered to limitation of naval strength on a *status quo* basis. Naturally, for the importance of capital ships is being rapidly diminished and the money saved from useless competition therein could be more advantageously spent on aircraft and armies, and the chemical and mechanical accessories that

seem to be the force of the future. But similar agreements to limit armies and aircraft and chemical warfare have met continual opposition and discouragement; few still have faith in their attainment. And in the trifling concessions so far obtained we find suspicion and jealousy and a fear that some shrewd deceit is being carried on. In short, the rulers and legislators of the world are at present certainly not convinced of the advisability or practicality of universal peace, and though they talk peace, they prepare according to their means for war. Those of them who still strive earnestly for an end to war meet discouragement and cynicism from their compeers and feel their labors futile. They too hope for some more concrete and clear-cut method than the bandying of words between master quibblers.

Litigation is a notoriously slow process, and international litigation is no exception. Yet international disputes are not decided by Fabian tactics, but by *coups d'etat*. Mussolini, Kemal Pasha, Poincaré in the Ruhr, are recent instances of the application of *force majeure* to cut the Gordian knot of involved diplomacy. Actual war, it is true, has not always resulted. But the seeds of war have been sown and the spirit of revenge is abroad. It seems certain, that if our generation is to see peace, it cannot rely upon a small number of able diplomats and distinguished international lawyers meeting in conference to bring it about. And perhaps the chief reason, strange as it may sound, is their real lack of power. This needs some explanation.

In effect, any ruler or legislator or diplomat must give ear to the power behind the throne. This may be financial, ecclesiastical, agrarian—but in any case real, or an

artificially fomented, demand for war coming through these powers finds the so-called rulers practically helpless. Impeachment, change of cabinet, revolution, these are prospects awaiting them if they oppose the clamor. And their representatives in the League or elsewhere must also pay heed to these influences. Their position and their importance depend on those who selected them; for every party in power there is one outside that will be for war if the former is for peace. So any convention of statesmen and diplomats, even if they be of the highest caliber, is subject to the imperfections and limitations caused by this latent impotency. In this and in the long training in superfine subtlety, dignified log-rolling and desire for the public eye and interest to which they have been subjected may be ascribed the real difficulties of a League of National Diplomats in solving the problems of war and peace. None the less, some international council seems essential to any complete plan for world tranquillity, and the League is potentially adequate. What I propose is a plan whereby an immediate ancillary force can be invoked to prevent war and work for peace without the limitations and procrastinations of present tribunals. To-day the League and the World Court seem in the class of projects like that of universal education toward a hatred of war and a desire for peace—a brilliant goal but not a practical means.

We must address the question of war-prevention to some compact, powerful and altruistic body that is internationally minded and subject to international organization. We cannot address vague generalities to vaguer abstractions called "Womanhood," "The Common People" or the "Youth of the World" and hope for tan-

gible results. Above we have seen that it is unsafe to rely completely upon kings and potentates. To whom, then, shall we turn?

Not to the church, although churchmen have always been in the van of peace movements. They have ideals and unselfishness in abundance, but there are too many sects and denominations, too many conflicting interests, and too little real power and influence. Otherwise peace would have come centuries ago.

Neither can big business, whether financial or industrial, be appealed to confidently. There we have power and organization, but scarcely the altruism that is needed. War brings immediate profits for too many business men for them to combine for perpetual peace. It is possible to prove by logic and economics that all lose eventually by the wastage of war, but it will be exceedingly difficult to make that influence men whose interest is primarily in their class and generation. If posterity pays, let it pay, is their motto. Greed is too ingrained to permit peace, and the spread of trade and industry with its new contacts and competitions is assuredly far more likely to create wars than to prevent them. Similarly, the oft-mooted project to hamper wars by an agreement that neutral nations refrain from supplying munitions will have to reckon with the cunning and power of avarice. Prohibition has brought its successful bootlegging and embargoes on arms put a premium on smuggling. All enforcement must be done by officials, and with the prize great enough what officials are to be considered absolutely incorruptible? And if successful, such embargoes would simply put a premium on preparedness within a nation, and give the victory to the

most warlike. No, we cannot count on money and captains of industry nor limitations on them to check war.

Hope has been often expressed that labor, the common people, the proletariat, will finally stop capitalistic butchery. But experience teaches otherwise. The war that brings profits to the *entrepreneur* no less inflates the laborer's pay envelope. War spells undreamed-of prosperity to them—even in beaten countries like Germany they are comparatively better off than the bourgeoisie. And despite the contentions of the radical press, the skilled artisan is innately nationalistic, holds a keen sense of contempt and hate for hereditary enemies, and enjoys a fight for a fight's sake as much as any white-collar fellow citizen. The Fascisti of Italy, who produced Mussolini and were ready to fight Jugo-Slavia and Greece, are mainly workers and farmers. They control Italy, and Italy has been considered a labor stronghold.

When the test comes it will be found that the skilled laborer or office-worker of one state is a rival of his counterpart in the next rather than a colleague. And their organizations are primarily selfish—justifiably so, perhaps, for the desire for more pay and leisure is a natural one—but here again we do not find the altruism and self-abnegation we need. As for the radicals, peace is only a catchword with them. Russia is not beating her swords to ploughshares, but avowedly preparing for war —a different variety of conflict, it is true, but none the less unwelcome. Red orators who are focussing on civil wars may sing the Internationale, but there is small hope for peace therein. History refutes any hope in popular uprisings bringing peace. It was the French Revolution

that produced Napoleon. Finally, the physical difficulties in the way of organizing the masses of labor into a coherent and unified force are tremendous. A more compact body would be much more desirable.

Now between the powerful, selfish class of capitalists and the powerful, selfish class of proletarian labor, is the abstraction called the bourgeoisie. Unorganized, weighty, bewildered, it is always the heaviest sufferer in war and revolution. Too heterogeneous for organization and too devoid of leadership to initiate progress, it is the fly-wheel of civilization none the less, and the true desire for peace is most abundant in the midst of these grocers and bank-clerks who, when war comes, join the parade, wave their flags, and uncomprehendingly give their lives and dollars to the Moloch of battle. Yet it is almost impossible to conceive of the totality of middle-class unimaginative, comfort-loving minds actively moving in a relentless drive against war. The bourgeoisie is too fluid, too wavering, to do aught but follow. Who is to lead?

The answer lies in the most striking phenomenon of modern civilization—in what Renan and others have labelled the Technocracy. The progress of science and technology is the feature of the age; the technicians have transformed the face of the globe and imposed changes on its inhabitants that can scarcely be appreciated without considering what Earth was like a mere two centuries ago. This class of super-trained super-able men is to-day absolutely essential to the carrying on of the highly specialized duties of modern civilization.

Prominent among these duties has been war, and the development of high-explosives, poison gas, radio, avia-

tion and submarine devices and the other mechanical and chemical features of present-day conflict has required the services of a large number of the world's ablest minds. Their names are little known: their work has been done quietly. The public overlooks them for the more spectacular orators and generals; even the press is barely conscious of their existence and importance. Yet in 1913, when able statesmen and economists were proving that large-scale war was now a moral and financial impossibility, chemists noted the final success of Haber's nitrogen-fixation process and predicted that an eruption would soon occur. For it meant that Germany no longer depended on Chilean saltpetre for explosives and fertilizer and could hazard an English blockade. The naval battles of Coronel and Falkland Islands are also significantly tied up with this chemical discovery, without which Germany could scarcely have fought six months. Innumerable further instances could be adduced of scientific and technical invention and control occupying a preponderant place in warfare, but space is limited and only a few outstanding ones can be mentioned. The fermentation of corn to acetone and butyl alcohol—necessities for munitions and airplane dopes; the use of benzol and alcohol to replace gasolene, the production of a synthetic rubber, synthetic fats, and new alloys to replace unobtainable metals—these are only a few of the items whereby science served Mars in Europe. The airplane is completely a scientific and technical achievement; so is poison gas, which caused a quarter of our casualties in the war. Smoke screens and antiseptics, sound detectors and high explosives, etc., form an endless list if one could pause to enumerate. In brief, the highest degree of

training and skill in the physical sciences is now being brought to bear upon improving and controlling the paraphernalia of war. Present campaigns are between opposing forces of technicians, and battle-fields are their laboratories. And if anything is certain, it is that future wars will be fought with even greater emphasis upon the harnessing of scientific talent to the problem of destroying or incapacitating the greatest number of opponents in the minimum time.

Projects to render illegal further extension of scientific warfare are being brought forward, but are scarcely sound in conception. The Hague Tribunal had banned poison gas and bombing of unfortified towns, but the exigencies of war make treaties and agreements simply matters of convenience. Even if such limitations are entered into in good faith, there is no provision for preventing individual research, and it is hard to believe that a nation in possession of results of such research applicable to war will refrain from using them. Still more important, the value of scientific ingenuity and skill is not limited to the obvious armaments of war, but is as great in the production of manifold other commodities, less deadly but perhaps even more important. Food, fuel, medicines and fabrics are all produced to-day under technical control, and the haphazard former methods of manufacture are impossible for the scale on which modern industry must provide the needs of a nation in a modern war. Sudden shortages of raw material arise and must be filled by acceptable substitutes. By-products must be utilized; waste of all kinds reduced to a minimum. It is the day of the specialist, and in so far as material things are concerned the technician is the

specialist. He is, literally, the *deus ex machina* of to-day.

Consider the existing conditions. We have certain vital industries,—coal, steel, oil, automobiles, packing-houses and perhaps a dozen more. They are enormous in extent, and paramountly decisive in the event of war. On them lies the burden and to them comes the profit. Each may be compared to a group of huge bottles with narrow necks; these constrictions are the key processes through which all the material must pass and there stand the technicians. Chemist and bacteriologist, engineer and metallurgist make up a body of men small in actual numbers but yet able to nullify the vast resources of industry. Without their accurate control and ingenious solving of the ever-recurring problems, the masses of raw material, the myriads of machines and the millions of laborers are as helpless as an automobile without a spark-plug. Their long and specialized training makes them difficult to replace, and the dangers of incompetent substitutes make it additionally important that they keep their places when mass-production is called for. If the technicians fail them, the financiers and laborers cannot do more than move feebly the wheels of industry.

A growing feeling of power has begun to stir in the scientists and technicians, too long divorced from active participation in public affairs, and it is quite conceivable that the rule of nations by selected men of this type is drawing near. A substitution for government by log-rollers and wordmongers of one composed of men trained to think accurately, act efficiently and co-operate harmoniously for the general good is certainly a promising experiment. But irrespective of the arrival of this technarchy to actual rule, the fact remains that to-day

the trained scientist occupies a unique position of great importance and tremendous latent power. Willy-nilly, he must take over an increasing share of world-influence and world-responsibility. Hitherto he has accepted the ineptitude of lawmakers and law-interpreters as a bewildering mystery and borne with it as a necessary evil. It is now incumbent upon him to do his bit in this domain as he has in those of the atom and the cell. And chief among his new problems will be that greatest of wastes and most illogical of phenomena—War.

In the past the preaching of peace has not been addressed to these men particularly. To them pacifism was another meaningless abstraction coined by unscientific and hysterical folk. But the protagonists of war did not overlook them; they assigned them their places in the war machine; and with few exceptions these scientists grappled patriotically and efficiently with the problem of destroying foemen. But let it be understood that their psychology was primarily that of the experimenter, not that of the killer, the notoriety-seeker, or the profiteer. A chemist passing acetylene into arsenic chloride did not visualize it directly as a means of inflicting a horrible death. He was interested in the course of the reaction and in the properties of the resulting substances. If among these properties was that of great toxicity, and his problem was to find such a product, he naturally set himself to make it efficiently and adequately. Despite prevailing belief, the scientist is not cruel or inhuman—he is simply impersonal. Were a human life—or a million lives—to be spent for some equivalent benefit, there would be no particular revulsion on his part. But the illogic

and wastefulness of war appall him, even while he follows the line of least resistance and assists in that self-same waste, comforting himself with the thought that some further crumbs of Truth might result from his labors.

Now, admitting the power of this technocracy, and the ability of the individual scientists, there are two important questions to be asked. *Can* they prevent war? *Will* they act to do so? In reply to the first it must be granted that war of a sort can be carried on without their co-operation. Clubs and stones and bows and spears will always be available; if belligerency rises high enough men can fight with even less, with tooth and claw as the beasts. But in modern civilization such an extreme case is inconceivable. War is no longer a conflict between individuals and armies, but between mines and forests, factories and farms. It is waged on a scale that staggers the imagination, with a complex paraphernalia that represents the peak of man's ingenuity. Only the massed ability of a nation's highly trained technicians can cope with the problems presented, and on them in great measure depends the outcome. It seems certain, then, that a full co-operation of these men with the forces working for peace supplies a most promising solution to the problem of eliminating war.

Moreover, the causes of war lie in great measure in their domain. Lack of coal or oil, overpopulation, insufficient industries or too efficient industrialism, impoverished soil or decadence of racial stock—these are points on which nations will clash. These problems are great, but not so great that a massed attack on them by the combined scientific talent of the world cannot hope

to solve them without recourse to arms. Scientist and legislator have far too long been working separately and what scientific advice has been obtained has all too often been pigeonholed by uncomprehending rulers. But if any of these causes breed restlessness, and a clamor for war arise, let the technicians quietly but firmly refuse to apply their training and skill to such a crude solution of the problem. With their subtraction from the ranks, the wheels of Mars's chariot will stop short, and before bloodshed and rapine can fan the initial spark to an inextinguishable conflagration there will be an opportunity for cooler heads to meet and act. If the question is one of materials, of actual cramping or throttling of one nation, a calm discussion by these scientists of the states involved with the co-operation of those of neutral states can most probably adjust and administer the situation so that war will no longer seem the only way out. For instance, if lack of oil tempt a nation to war with a possessor of this vital commodity, a development of water-power, or alcohol or benzol fuel, or an assurance of an equitable supply from existing sources, will have an infinitely better chance of avoiding conflict than any decree of a league or plea of humanitarians. Should the budding war be over a nebulous point of national honor, this forced delay will permit the hysteria to subside and sounder judgment have an opportunity to prevail. It is certain that if the initial aggression be prevented there will be much more hope for peaceful compromise: a concerted action by the technicians will reduce to impotency any such act of aggression.

It may be argued that munitions can be obtained from neutral sources, even if the industries of the involved

nations be paralyzed. But this agreement to resist war by a scientists' strike, for so it may be called, is to be international, and every technician will know that he is expected to interpose passive but effective resistance to the cry for arms and blood. Some may be tempted by the bribes of war-munitions makers, but scarcely enough to do material harm. There will always be far more venal officials and greedy smugglers than scientists who betray their trust. Again, it may be asserted that accumulated stocks of war material might suffice to wage war even if further supplies were cut off. This might hold in the case of conflict between quite disproportionate opponents, e.g., United States and Cuba. But experience has shown that even such apparently mere punitive expeditions are likely to involve enormous complications, as witness the outcome of Austria's attack on Serbia. Uncertain of future supplies, uneasily aware that the all-important technicians are resolutely against any open or covert aggression, it will be a bold ruler or a mad one who will risk a ridiculous fiasco or a sanguinary downfall. To sum up, it is reasonably certain that a concerted action by the world's technicians *can* prevent war.

It is in a way more difficult to answer the second question, "Will they prevent war?" In the first place, there are among scientists as well as among other thinkers, many who are not convinced that war is not a biological necessity. While these men would probably not refuse to assist in preventing any particular conflict, their attitude toward the general problem might be a source of weakness. Yet it does not seem too much to expect that a drive on these men with all the power of argument and statistics, emphasizing the wastage and blun-

dering of war, would succeed in enlisting them to enthusiastic co-operation. The clinching argument would be an obvious one; the world has so far been in a perpetual state of warfare. This may have been necessary, but to assert that because war had always been, war must always be, is unwarranted and illogical. On the other hand, if the experiment of compulsory peace be made for a generation or so, there would then be available comparative data whereby to prove or disprove the theory of War's necessary place in human progress. For one who knows the attitude of mind of the technical world, it is far more easy to imagine an eager unanimity toward making this experiment than any considerable dissent.

There remains one outstanding difficulty. The refusal of these men to enter into the incipient war will meet with strong pressure by the forces favoring the conflict. Treason and cowardice will be cried; imprisonment and death threatened. Yet men who have given a score of lives and more to X-rays and radium, who have sacrificed comfort and safety and life to the study of arsenic and cyanogen, yellow fever and Arctic cold, who in the past were tortured for heresy but still clung to the truth as they saw it, whose pride and ambition consist in the solving of great problems at any cost—these men are scarcely to be swerved by threats or by sneers of a frenzied populace. Moreover it is scarcely conceivable that any considerable decimation of the technicians would ever be seriously contemplated. Their value is too great, their replacement too difficult for any such menace to be more than an empty gesture. If there are a few martyrs, their blood will seal the compact more firmly. No, let the world's scientists once be

convinced that their duty is to end war, and no power can prevent their doing their utmost to win that most glorious of all their mighty victories.

Now, granting both power and willingness to bring about peace, what about the organization of these technicians? Most fortunately, they are already organized to a high degree. The American Chemical Society has 15,000 members; the other scientific and engineering societies probably six times that number. Other civilized nations are similarly organized and many of these associations are international in their scope. Founded on principles of truth-seeking and truth-telling, co-operation and progress in their respective fields of service, they afford a remarkable nucleus for a World Technical Association for the promotion of peace. Through the highly developed scientific periodicals and frequent meetings these men become known to each other by name at least and often by personal acquaintance. They travel much, and in circulating about the world promote understanding and friendship. And they are polyglot; the average scientist has some command of French, German and English, whatever his nationality. Their own language of symbol and formula is a *lingua franca* that welds Russ and Briton, Czech and Japanese into a united brotherhood. A further extension of the present organizations of these men into a unified whole embracing all these factors and utilizing them to work for peace is quite feasible. Only a serious effort is needed.

I propose, then, that a bill be introduced into the Senate authorizing funds to defray expenses to a World Technical Convention to be held in Washington of a sufficient number of representative delegates from the

scientific and technical societies of the world to give an approximate cross-section of this powerful group of men. They are to be chosen by their organizations, their expenses paid, and all helpful assistance liberally provided. This convention should be opened by the President, and the aims and purpose outlined. The presence and opinions of prominent legislators and diplomats and peace proponents will be helpful, but in the main the Convention is to work out its own plan of action. One meeting will scarcely be enough; it should be made an annual affair till the purpose is accomplished. The expense of such a gathering would be slight, and the world will be well repaid for the money by the presence of a thousand or so representative delegates who respect each other on scientific lines and are soberly conscious of the importance of the problem and their own power to solve it.

There are a few important points that they will focus upon. There must first be laid the foundation for an organized effort to place on record as inflexibly opposed to all aggressive war each of the world's important technical societies. Every member should be pledged to refrain from knowingly assisting in creating or carrying on such a war. The funds and influence of the organization are to be at the service of any member who may lose liberty or position by this action: an important feature, for the possible suffering of those depending upon him is a powerful bar against a man's risking life, liberty and source of income for an ideal. Assurance of this aid from the association will nullify most of the pressure against the technician's full consecration to the cause.

Another point should be the agreement as to the extent to which further researches in which lethal substances or forces are accidentally discovered should be made public. At this writing the press reports that a paper before the Society of Electrical Engineers announces the possibility of harnessing electrical energy of tremendous voltage so that it may be used in warfare as an artificial lightning-flash. If true, the announcement seems unwise. Enough gain to science can be afforded by thorough discussions of research eliminating any mention of its value in warfare. The full details might be kept in sealed archives, to be used only in event of some very great emergency, such as an attack by Asiatic, African or bolshevik sub-civilization.

Standing committees of experts should be elected to study the roots of war and rectify the unbalanced conditions of resources and populations before a war condition is reached. The possibility of a world language such as Esperanto should be studied, and if found useful in promoting world harmony it might be advisable to publish future scientific reports in that medium. The biologists and eugenists can investigate overpopulation as a cause of war, and bend themselves to the task of adjusting the net increase to a safe point. All scientific progress, for that matter, since it raises the standards of living, almost automatically regulates the birth-rate of a nation. In short, wherever seeds of war exist, let them be considered and studied by this body even as the problems of synthesizing indigo or weighing an electron. That some solution would be found seems certain.

The last problem will be the gradual diversion of the

men and industries now primarily devoted to warfare into other and more useful occupations. With the innumerable canals undug and streams unharnessed, with predatory beasts and even more dangerous insects still unchecked, with new demands for production of all kinds increasing daily, there seems room enough for all the man-power and machine-power of the world. Yet unless a scientific study is made and logical steps taken to insure this replacement, there will be an appreciable extra resistance on the part of both capital and labor.

Other methods and problems may be thought of when the enormous brain-power of the scientific world grapples seriously with this question of Peace. Some project outside of the scope of this plan may be found to be more effective. In any case the scientists will have to play an important part and this convention will serve to bring them into line with other forces working for the same end. They will be found ever-willing to co-operate.

In retrospect, I can only repeat that we have here a plan whereby the most powerful idealistic and organizable body of workers and makers of progress can be welded together for a purpose of infinite value to mankind and yet intrinsically no more difficult to attain than many they have already placed behind them. The quibblers and ranters have failed; let the technician try his hand at the problem. And since the United States assumes no obligation or responsibility in this plan, beyond that of a generous host, there can be no objection to it on the score of possible entanglement in foreign squabbles.

VI

TO OUTLAW WAR:

A DECLARATION OF INTERDEPENDENCE BY THE UNITED STATES

BY M. CAREY THOMAS

Miss M. Carey Thomas, organizer of Bryn Mawr College, was president of it for twenty-eight years and is now president emeritus. Under President Thomas in 1915 Bryn Mawr opened the first School of Social Economy and Social Research in connection with any college or university in the United States, purely graduate in nature, and in 1921 established the "Bryn Mawr Eight Weeks Summer School for Women Workers in Industry," the first such school to be organized in the United States. Miss Thomas was for many years President of the National College Equal Suffrage League. Miss Thomas was influential in 1890 in opening the Medical School of Johns Hopkins University to women on the same terms as men, and in fixing the high admission standards of the medical school for both men and women. She has been active in the American Association of University Women since its foundation, and was one of the founders of the International Federation of University Women in 1920. She has recently been working and speaking for the entrance of the United States, without reservations, into the League of Nations. Her published work includes many statistical studies and monographs on women's education, such as: The Education of Women, 1900, awarded a medal at the Paris and St. Louis Expositions; A Statistical Study of Co-education in the United States for the Encyclopedia Americana, etc.

VI

TO OUTLAW WAR: A DECLARATION OF INTERDEPENDENCE BY THE UNITED STATES

DECLARATION OF INTERDEPENDENCE TO BE SUBMITTED TO THE AMERICAN PEOPLE FOR APPROVAL; TO THE PRESIDENT AND CONGRESS OF THE UNITED STATES OF AMERICA IN FORM SUITABLE FOR ADOPTION; AND IMMEDIATELY THEREAFTER TO BE COMMUNICATED TO ALL THE PEOPLES OF THE WORLD.

DECLARATION OF INTERDEPENDENCE

In the year 1776, we, the People of the United States made public to the world our Declaration of Independence under which in the past we have grown great and prospered exceedingly. And now in the year 1924, in this new era of the Will to Peace, we, the People of the United States of America, make public to the world this new Declaration of Interdependence under which we wish to live.

We Hereby Declare and Publicly Proclaim:

I. THAT ALL AGGRESSIVE WARFARE, AGAINST WHOMSOEVER DIRECTED, IS AN INTERNATIONAL CRIME, GREATER THAN ANY OTHER WHATSOEVER, AND THAT ANY NATION JUDGED GUILTY OF SUCH CRIME SHALL BE HELD BY US TO BE AN OUTLAW AMONG NATIONS.

II. That no matter what the provocation, no matter what the material interests involved, our country will never henceforward commit this crime.

III. That law shall be the ultimate arbiter of all our policies, and that from this day forth all our disputes with other nations shall be submitted by us to due process of negotiation, arbitration, conciliation, and international law.

IV. That we pledge ourselves to pursue now and hereafter the following policy for world peace:

POLICY FOR WORLD PEACE

I. Settlement of International Disputes.

We pledge ourselves:

1. To submit to arbitration, conciliation, or due process of international law, all disputes between ourselves and other nations not settled by direct negotiation; with the exception of the Monroe Doctrine, immigration, the tariff, and other questions of domestic jurisdiction which are not regarded in this Declaration as subjects of international dispute.

2. To abide by the decisions of such processes of arbitration, conciliation and law; and to carry out within the specified time the judgments and awards made.

3. To submit, during the progress, and at the conclusion, of any defensive war that the United States

may be forced to undertake, all the circumstances connected therewith to public investigation and judicial judgment, so that the United States may be declared guilty, or clear, of wrong-doing in waging such warfare.

II. Outlawing of War.

We pledge ourselves:

1. To hold any nation judged guilty of the crime of war an *outlaw among the nations,* and immediately to suspend all relations with said nation until such time as it shall have made, or satisfactorily guaranteed, such reparations and other damages as may be determined by due process of law.

2. To abrogate all treaties and trade agreements with said outlawed nation; to recall ambassadors; to forbid all financial dealings, so that all current transactions are suspended, all loans, sales or purchases, exports or imports stopped; to clear the seas of all shipping belonging to said outlawed nation and to intern all its ships; to regard all its citizens as outlaws in that they will not be admitted to the United States; and to recall home all United States citizens travelling in the outlawed country, ships being sent to take them off; and thereafter to put an end to all railway, airplane, telephonic or telegraphic communication; and in case it shall continue to fight in defiance of the judgment of the properly constituted Court, to hold the patents and other property of said outlawed nation in order to insure such payment of reparation as may be required by due process of law.

III. World Court of International Justice.

We pledge ourselves:

1. To accept as our World Court of International Justice the *Permanent Court of International Justice* now established at The Hague, already recognized by fifty-four nations of the world and accepted by nineteen nations as having compulsory jurisdiction.

2. To participate on the same conditions as other nations in the nomination and election of its judges, the United States sitting for this purpose only with the League of Nations without thereby undertaking any other obligations whatsoever except the obligation to contribute our quota to the expenses of the Court.

3. To accept the compulsory jurisdiction of, and to make no appeal from, the decisions of the Permanent Court of International Justice,—to be referred to hereafter in this Declaration as the *World Court*.

We request:

4. That the League of Nations take such action as may be necessary in connection with our decision to outlaw war, so to enlarge the powers of the World Court that it may assume jurisdiction, securing for this purpose such findings of fact and other necessary information from such other commissions or bodies of experts as it may determine:—

(*a*) In the case of any war undertaken by the United States against another nation, to render a decision as to whether the United States has broken its solemn pledge, voluntarily undertaken, and has been guilty of the crime of war; and in case of guilt to impose the necessary penalty.

(*b*) In the case of any outbreak of hostilities in any part of the world, to determine against whom the declaration of outlawry shall be made by the United States, due weight being given to the following considerations:—

Whether one of the parties to the dispute has referred, or sought to refer, the dispute to arbitration or other method of conciliation;

Whether one of the parties to the dispute has been guilty of provocation, although not of actual hostilities;

Whether, if neither party has sought to refer the dispute to arbitration or other method of conciliation, both parties may not be guilty and be outlawed;

Whether civil war within a nation, involving the right to revolution of its citizens in desperate need, shall be subject to declaration of outlawry, unless other nations shall become involved.

(*c*) To impose penalties and the assessment of damages and provision for payment and specification of time allowed for payment of the same, in cases where nations have been declared outlaws, or in cases where the United States may have been held by the Court to be guilty of the crime of war.

IV. Constitution of a Permanent Council of Vigilance and Inquiry and of a Commission of Jurists.

We pledge ourselves:

1. To co-operate with the League of Nations in setting up two additional international bodies,—*a perma-*

nent Council of Vigilance and Inquiry, and *a Commission of Jurists,*—in order to prevent international misunderstandings, it being understood that the United States co-operates with the League of Nations for this purpose, without thereby, however, undertaking any other obligations whatsoever.

2. To meet the expenses of said two international bodies for the first two terms of their appointment, or until their usefulness shall have been demonstrated and other financial provision adopted, out of such moneys as may be received by the United States in payment of the debts of the countries associated with the United States in the late war.

We request:

3. That, in view of the imminent danger of war, immediate consideration may be given to this proposal by the League of Nations, so that in case it is unable to co-operate with us we may proceed alone to set up said two additional international bodies, if this should seem advisable.

We submit:

4. The following method of organization of these two bodies, subject to such modifications as may be mutually agreed on:—

A. Permanent Council of Vigilance and Inquiry.

There shall be set up a *Permanent Council of Vigilance and Inquiry* to which shall be referred by the United States all disputes which are not adjusted by direct negotiation, or brought before the World Court, or settled by other methods of conciliation; and which shall for the same purpose be open to all other nations.

The Council shall be appointed for a period of nine

years and its members shall not be eligible for reappointment.

The salaries of the members of the Council shall be such as to obtain the services of the most eminent citizens and to secure to them a competence after the termination of one service, the members not being eligible for re-appointment.

The Council shall consist of fifteen members, of whom approximately one-third shall be women, and shall be organized after the manner of the Permanent Court of International Justice, the members being chosen from among persons of high moral character and acknowledged ability and competence, after consultation with distinguished men and women in different countries, the highest legal authorities, the professional and graduate faculties of colleges and universities of high standing, and such associations and national and international academies as may be competent to give advice. It shall contain no persons who are in the diplomatic service of their country and none who are connected with any business or banking concern which is engaged in international operations.

The Council shall sit at The Hague and shall be responsible for keeping and tabulating all data and returns used in its work, and for keeping its findings, awards and other records. It shall give free access to these documents to all interested nations, or individuals.

The Council shall employ a secretary, to be appointed by the Council from year to year, with such secretarial assistance as may be needed.

The Council shall be charged with the duty of investigation into matters of fact relevant to any inter-

national dispute and its findings shall, when requested by the World Court, be laid before it and form the basis for its action.

It shall act also as a Council of Vigilance and may offer its services in cases where it foresees danger of war, and in such cases it shall notify the Governments concerned and shall offer its co-operation.

It shall make its reports at least within one year, except when specified by agreement, but in cases involving threat of war it shall report forthwith.

The Council shall be competent to make awards and to recommend action to the Governments concerned.

The Council shall also, if desired, act as a Commission set up under international treaties.

We pledge ourselves:

To accept the findings of fact of the above Council of Vigilance and Inquiry and to carry out its awards and recommendations, unless, if these shall be rejected, another method of conciliation satisfactory to the nation or nations concerned shall be forthwith substituted by the President and the Senate of the United States.

B. Commission of Jurists.

There shall be set up a Commission of Jurists in order to codify existing international law and to provide for its extension by amendment and international agreement.

The Commission shall be appointed by the World Court and shall consist of such persons, in such numbers, receiving such remuneration, and meeting at such place as the Court shall direct.

It shall formulate and codify and publish the body of existing law now recognized among nations.

It shall make recommendations to the World Court for the enactment of amendments and extensions of the existing law, including in particular and for immediate use:—

(1) A definition of what constitutes an act of war,

(2) A definition of what constitutes aggression, which recommendations, if approved by the World Court, shall require ratification by the several nations, it being understood, nevertheless, that each such new law, as soon as ratified by any nation, shall be forthwith binding upon such nation.

The Commission shall proceed to work with the least possible delay and shall remain in permanent session until its task of codification shall be accomplished and thereafter shall sit as the World Court shall direct.

V. Publicity.

We pledge ourselves:

1. To publish all treaties already in existence between ourselves and other nations.

2. To publish all future treaties we shall make hereafter, immediately on ratification.

3. To publish all tariff, trade and other commercial agreements and concessions now in operation, or later to come into operation.

4. To furnish to the Permanent Council of Vigilance and Inquiry, or to any other official International Commissions for the improvement of International relations,

such information as said Commissions may deem necessary in the conduct of their work.

VI. Limitation of Armament.

We pledge ourselves:

To take immediate measures to limit our fighting man power, our armament and our manufacture and traffic in armament and munitions of war.

(*A*) *Limitation of Man Power.*

1. To adopt as our settled policy *no conscription,* except only as a last resort and only in a great defensive war, the causes and conduct of which shall be submitted to the World Court for approval and justification.

2. To organize, in lieu of such possible *conscription,* or of the maintenance of any considerable standing army, and to put into effective operation as rapidly as possible for all our people, between the ages of eighteen and twenty-four, *a system of universal training in world citizenship,* to the effect that under this system every man and woman between the ages of eighteen and twenty-four (due consideration being given to child-bearing women to whom postponement, or, when absolutely necessary, exemption, shall be granted) shall be liable, and shall be called up, for not less than two weeks' annual training in camp, somewhat after the Swiss method, (the first period being, if possible, from four to six weeks), and shall receive training in personal, domestic and community hygiene, in physical training —including self-defense—in national and world history and geography, and in the principles underlying com-

mon and international law, and in international peace and friendship, to the end that the peaceful democracy of the United States may rest forever secure in the love, intelligence and will to peace of all its citizens.

3. To meet the cost of this *universal training in world citizenship* out of such moneys as may be received in payment of the debts of countries associated with the United States in the late war, a sufficient amount being laid aside for this purpose to carry on said training for a sufficient time to prove its worth.

(*B*) *Naval and other Military Armament, Including Munitions, Implements of War, Airplanes and Poison Gases.*

1. To adopt as our settled policy the calling of international conferences whenever such shall seem feasible for the further limitation of naval armament and for the limitation of military and air armament of every kind and the international limitation and control of poison gases.

2. To attend through our official representatives all official conferences called for this purpose and to use our influence to the utmost to effect as rapid and complete a reduction as may prove possible from time to time.

3. To furnish full and complete data and such other information as may be required by said Conferences.

(*C*) *Manufacture and Traffic in Armament and all Munitions of War.*

1. To put an end, in all territory controlled by the United States, to the unlicensed manufacture of the

munitions and implements of war, poison gases and other engines of destruction.

2. To regard all uncontrolled manufacture by private enterprise as a *criminal offense.*

3. To forbid under prohibitive penalties the import, export, or private sale, of such weapons of war except by license and in such quantities as may be specified.

4. To prevent in time of war any export, or any sale whatsoever of such weapons of war except to such country or countries as shall be declared by the World Court to be fighting in self-defense, or in the support of nations fighting in self-defense.

5. Also to prevent in time of peace such export or sale of munitions of war, except by order of the Government to countries unable to manufacture the same and requiring arms for self-defense, and then only in such quantities as may be approved by international limitation of armament treaties, or by international agreement.

6. To control the price and sale of all munitions of war so that there shall be, in time of peace, only a moderate percentage profit to be specified later, over and above the actual cost of production, and, in time of war, no profit whatsoever, it being our policy to put a complete end to financial interest in the destruction of human life.

7. To set up a *Standing National Commission on Limitation of Armament,* to be appointed by the President from a list of persons convinced of the possibility of international peace, of high moral character and acknowledged competence, drawn up after consultation with the professional and graduate faculties of colleges and universities of high standing, and such associations

and national academies, or national sections of international academies as may be competent to give advice. It shall contain no persons who are in the diplomatic service of the United States, and none who are connected with any business or banking concern which is engaged in international operations, or with any company engaged in, or subsidiary to, the manufacture or distribution of munitions of war.

The Commission shall consist of not less than nine and not more than fifteen members, of whom at least one-third shall be women. They shall be appointed for a period of nine years and shall not be eligible for re-appointment; the salaries paid shall be such as to secure the services of the most eminent citizens of the United States and to secure them financial independence after one term of service.

It shall study the whole question of the limitation of armament, collect data on the same, issue licenses for the manufacture and sale of munitions of war, fix from time to time the percentage of profits to be allowed, and bring infractions of laws concerning limitation of armament before the proper Courts.

It shall have access to all the data and information necessary for its work, including the preparations for war made by the United States Government from time to time and the quality and quantity of every kind of offensive weapon and, in the case of poison gases, information as to not only the quantity but also the estimated effect and, as soon as such shall be matter of international agreement,

also as to the formulas and secrets of construction.

It shall have authority to invite experts to give information or to take part in its deliberations and to arrange for the payment of such experts, an ample appropriation being made for this purpose.

It shall have authority to make such compensation as may be required equitably to bring to an end the present system of privately invested capital in munitions of war and to lay down the terms under which private manufacture of the same may gradually and equitably cease.

Its expenses shall be met by the United States as far as possible out of such moneys hitherto voted to the War Department as may be saved by the limitation of armament effected under this Declaration.

VII. Education in World Peace.

We pledge ourselves:

1. To give the children of the United States a sympathetic knowledge of other nations, to endeavor to create in them a desire for international peace and friendship, a respect for international law, and an understanding of the principles which underlie not only the *Declaration of the Independence of the United States*, but also this new *Declaration of the Interdependence of the United States.*

2. To exert to the utmost the influence of the United States Department of Education to this end and also through said Department:—

To bring education in world peace to the attention of all colleges and universities and of State Departments

of Education and of all public and privately supported schools and other educational institutions.

To co-operate with such voluntary associations and agencies for peace as are now sending out speakers, films and other propaganda, such as shall be approved by the United States Department of Education.

To arrange for the preparation by leading scholars of histories and text books written in the new spirit of international friendship with emphasis on peaceful civilization rather than on predatory warfare, and to bring such text books to the attention of the teachers of the United States.

To initiate whenever possible, and to co-operate with other nations, in the interchange of professors, teachers, and students; to found, and whenever possible to assist in the foundation of, travelling fellowships for study in other countries; and in general to endeavor to train the young people of the United States in world citizenship.

INVITATION TO OTHER GREAT NATIONS

And Finally:

Whenever and as soon as the President and Congress of the United States of America shall have made public and adopted as the policy of the United States the above Declaration of Interdependence, we, the People of the United States, call in the first instance upon the democratic peoples of Great Britain, France, Italy and Japan, and also, as soon as a preliminary organization of interdependence shall have been affected, upon the democratic

PEOPLES OF GERMANY AND RUSSIA, AND WHEN EVENTS PERMIT, UPON THE PEOPLE OF CHINA—ALL OF WHOM SHARE WITH THE UNITED STATES THE RESPONSIBILITIES OF GREAT NATIONS—TO UNITE WITH US IN CALLING AN INTERNATIONAL CONFERENCE OF INTERDEPENDENT NATIONS.

Conference of Interdependent Nations.

As soon as one or more of the above nations make, publicly announce and declare the above Declaration of Interdependence, and pledge themselves to carry out its policy for peace, there shall forthwith be held a Conference of Interdependence between the United States and such nation or nations, in order:—

1. To make a treaty between the interdependent nations embodying the relations of world co-operation and friendship between nations, the outlawry of aggressive warfare, the reign of international law, and the limitation and ultimate abolishment of armament; to set up and appoint the necessary executive officers; to organize, if such should prove necessary, an Interdependent Force of Peace Police; and to perform such other functions as may be determined.

Said treaty to contain nothing that shall interfere with membership in the League of Nations, the British Empire, or with any other understanding or alliance between Nations for purposes of mutual defence and maintenance of peace, provided such membership or alliance shall be made public; nor shall it interfere with the assumption of mandates under the League of Nations, nor with the application of the Monroe Doctrine to the Continent of America; nor shall it imply any obligation

for the United States to join the League of Nations or any other international body.

2. To adopt mutual guarantees of protection against outlawed nations as a measure of world peace, it being nevertheless understood that there shall be no compulsion on the United States to take part in wars in Europe or in any continent not her own, should such wars prove unavoidable; and, in general, to put into effect close co-operation and interdependence.

3. To make such modifications in the appointment of councils and commissions as may seem advisable and to set up such new interdependent councils, commissions and committees as may be desired.

4. And to set up in particular a *Permanent Economic Commission* with power from time to time to consult, or to add to its deliberations, other experts not sitting on the Commission, with the following duties:—

To study the causes of war, including the exploitation of natural resources and helpless peoples, commercial competition, high tariffs, predatory monopolies, and to recommend the substitution of new and friendly trade relations between interdependent nations.

To recommend, if it should seem feasible, a modified free trade between interdependent nations with imposition of scientific duties based on geographical situation, labor and living conditions, ocean freights, etc.

To consider the whole question of money and to recommend, if it should seem feasible, a stable currency based on permanent values, between interdependent nations.

5. AND IN GENERAL, TO SUBSTITUTE FOR DESTRUCTIVE COMMERCIAL RIVALRY BETWEEN NATIONS, WITH ITS INEVITABLE DANGERS TO WORLD PEACE, FRIENDSHIP, PROTECTION, SYMPATHY AND MUTUAL UNDERSTANDING IN ORDER THAT THE WHOLE WORLD MAY BEGIN TO LIVE AS ONE GREAT CIVILIZED COMMUNITY, EACH SEVERAL NATION INDEPENDENT, AND ALL NATIONS TOGETHER INTERDEPENDENT, ALL UNDER THE RULE OF INTERNATIONAL LAW, PERPETUALLY AT PEACE WITH ONE ANOTHER.

ARGUMENT FOR PLAN

The plan herewith submitted is simple and practical. It can be made an election issue in the coming presidential campaign and in the election of national and state senators and representatives. It is based on two popular slogans—*The Outlawry of War* and *The World Court*. It thus makes a direct appeal to the ordinary everyday American. It avoids political controversies and ancient grievances.

It makes important practical contributions to world friendship. As soon as it goes into operation it sets up immediately, in co-operation with the League of Nations, or, if co-operation is refused, independently, and maintains financially without calling on other nations, two international commissions essential for peace,—a Commission of Jurists to codify and extend international law and a Permanent Council of Vigilance and Inquiry to furnish findings of fact to the World Court and to take independent action to prevent war. It proposes to use part of the allied debts due the United States to meet the cost of setting up and maintaining these two

international commissions for the benefit of all nations. Although the actual expenditure of the United States will be the same as if paid for out of other funds, the sacrifices of Allied Nations making stupendous efforts to pay their debts will thereby be greatly alleviated.

It does not interfere with the League of Nations. It specifically co-operates with and helps the League; it provides new and powerful instruments for the League to work with in the Commission of Jurists and the Permanent Council of Vigilance and Inquiry. It leaves the United States and other interdependent nations free to belong, or not to belong, to the League.

The plan contemplates no war to end war. Instead of fighting criminal nations, it outlaws and boycotts them. In no case except that of offensive attack against the United States is the United States compelled to take part in European or any other wars. The United States is too powerful to be subject to attack because of outlawing or boycotting criminal nations except in a world conflagration.

The chief merit of the plan is that it enables the United States, acting, if need be, single-handed, to block the will to war and by her own voluntary submission to international law to lead the way in helping the world become internationally-minded.

There is every reason to believe that Great Britain and her Dominions will join the United States in this Declaration of Interdependence as soon as they are invited to do so. In which case this mighty combination of the two greatest world powers with their joint navies covering the globe would be able to outlaw war and enforce

peace, even without waiting for the co-operation of other great nations.

The Proposed Declaration of Interdependence could be made by the United States in another year's time, *before it is too late.*

Should it go into operation in 1925, the United States would once more, as in 1776, take her rightful place among nations in the forefront of human endeavor.

And finally, the plan lends itself to popular propaganda. Its simple procedure, its generous initiative, and its essential nobility, cannot fail to make a strong appeal to the idealism of the American people.

VII

THE UNITED STATES AS AN ASSOCIATE MEMBER OF THE LEAGUE OF NATIONS

BY SIMEON STRUNSKY

Simeon Strunsky, editor and journalist, now a member of the editorial staff of the New York *Times*, was previously editor of the New York *Evening Post*. He is also well known as a contributor to magazines.

VII

THE UNITED STATES AS AN ASSOCIATE MEMBER OF THE LEAGUE OF NATIONS

SECTION I. PRELIMINARY CONSIDERATIONS

1

The problem set is to devise a practicable plan by which the United States may make its contribution to the maintenance of world peace without rendering compulsory our participation in European wars, if any such, in the future, are found unpreventable.

It is the thesis of the plan hereby submitted that the most feasible method of enlisting American cooperation for the prevention of war, without exposing us to involvement in foreign wars, is through the acceptance by the United States of an Associate Membership in the League of Nations, under conditions outlined below.

2

The reasons for urging an approach to the problem of world peace through the League of Nations are three:

(1) The League of Nations is already in existence and functioning. Its membership comprises more than fifty nations. From the point of view of economy in time, it is obviously better to build around an existing nucleus.

(2) The principle underlying the League of Nations has the support of a very large section of the American

people. Even if we assume, on the basis of the national election of 1920, that the supporters of the League are in a decisive minority, they nevertheless number, in the aggregate, nearly ten million voters. To educate that number of voters to a new plan would involve a great expenditure of time and effort.

(3) Most important of all, in the writer's opinion, is the consideration that abandonment of the League of Nations *in toto* would produce an unhappy psychological effect on the American people. To confess failure of the League would mean, in the minds of many millions, to confess the bankruptcy of the peace idea in general. The impetus towards international peace would be crippled. People will reason that if a peace movement, brought into being by the recoil from the greatest war in history, has broken down, then no peace plan will work. People will anticipate, in connection with any plan that may be substituted for the League of Nations, the same process of exultation, delay, disillusionment and ultimate frustration. The will to peace will be paralyzed.

3

Any plan for American co-operation in the safeguarding of world peace must reckon less with the technical difficulties inherent in such a project than with a state of mind. That state of mind among our people to-day may be described as one of suspicion and fear.

It is not necessary now to go into the question how far this state of mind is spontaneous and how far it represents the results of four years of anti-League agitation. It is quite true that four years ago four-fifths

of the members of the United States Senate favored a League of Nations, with or without reservations, and the sentiment in the Senate was a reflection of sentiment in the country. To-day we do not know; and for various reasons. President Harding, for instance, believed that the people in 1920 rejected the League of Nations once for all. On a lower level there are political leaders who believe that opposition to the League of Nations or silence on the League of Nations may be capitalized in the interests of party victory. And there is the factor of inertia and precedent. Voters and leaders may feel themselves committed to their record of the last four years.

4

Nevertheless, it is this state of mind that must be assailed if the United States is ever to use its influence, in any form, for the preservation of peace. The task is far from being a hopeless one; quite aside from the general consideration that startling changes of mind in a democracy are within the realm of normal experience.

If we look back to the specific reasons for opposition to the League, as they operated in 1919 and 1920, we find that a very considerable number of them no longer prevail. Four years ago, objections to the League of Nations fell under the following heads:

1. Article X.
2. The six votes of the British Empire in the Assembly of the League.
3. The Monroe Doctrine.
4. League intervention in our domestic problems.

5. Opposition to the acceptance of mandates by the United States.
6. Shantung.
7. Ireland.
8. Egypt, India, etc.
9. The International Labor Office within the League of Nations.

Out of this list, items 6, 7, and 8—Shantung, Ireland and Egypt—India—though really extraneous to the purposes and activities of the League, exercised enormous influence in shaping hostility towards the League. But these items have been eliminated from the problem by the course of events. The facts have demonstrated the emptiness of the indictment framed against the League as the "enemy" of Ireland, the "accomplice" in Shantung, and the guarantor of British "domination" in Egypt and India. We are justified in saying, therefore, that much of the driving force against the League has spent itself. The opposition to-day deals almost entirely, and relevantly, with matters of exclusively American concern.

5

Within the realm of purely American problems it was accepted by an overwhelming majority in the Senate four years ago that the Lodge reservations sufficiently safeguarded American interests. Between the Lodge reservations and the Hitchcock reservations as propounded in varying form, the differences were only verbal. Yet, it is doubtful now whether even the Lodge

reservations can be regarded as a practical way of winning American adherence to the League. The mere suggestion of "entering" the League is conducive to hostility.

SECTION II. THE PLAN

1

The problem, therefore, is how to secure American cooperation with the League of Nations without American membership in the League of Nations. *The solution hereby advanced is that the United States should accept an Associate Membership in the League on terms to be defined below.*

2

For the United States to associate itself with the League of Nations, without entering as an ordinary member, seems, to the present writer, a sufficiently logical development from the rôle played by the United States in the war. We were one of the "Associated and Allied Powers." We were not allied with the other combatants against Germany. We were not bound to wage war with them and make peace with them, as in fact we did make peace separately. We happened to be associated with them by the fact of opposition to a common enemy. We may now be associated with the League of Nations by the fact of striving towards a common aim—the maintenance of world peace. In war it was for us to decide how far we would go along with the Allies. In working for peace it would still be for us to decide how far we will go along with the League of Nations. We may co-

operate and yet always retain full mastery over ourselves.

We are not dealing with pure theory. The principle of such an Associate Membership is obviously inherent in the reservation brought forward in the Senate on November 18, 1919, by the late Senator Knox as a substitute for the full set of Lodge reservations already adopted by the Senate. The Knox resolution (*Congressional Record,* 66th Congress, 1st Session, page 8742) ran:

"Resolved, That the Senate of the United States unreservedly advises and consents to the ratification of this treaty in so far as it provides for the creation of a status of peace between the United States and Germany.

"Resolved further, That the Senate of the United States advises and consents to the ratification of this treaty, reserving to the United States the fullest and most complete liberty of action in respect to any report, decision, recommendation, action, advice, or proposals of the League of Nations or its Executive Council or any labor conference provided for in the treaty, and also the sole right to determine its own relations and duties and course of action toward such League or toward any member thereof, or toward any other nation in respect to any question, matter or thing, that may arise while a member of such League, anything in the covenants or constitution of such League to the contrary notwithstanding, and also reserves to itself the unconditional right to withdraw from membership in any body, board, committee, commission, or organization whatever set up in any part of the treaty for the purpose of aiding its execution or otherwise, effecting by such withdrawal as complete a release of any further obligations and duties

under such treaty as if the United States had never been a party thereto."

The last clause of the resolution provided that the validity of the act of ratification depended upon the formal acceptance by the principal Allied Powers of the reservations set forth.

In non-parliamentary language, the Knox resolution declared that we were willing to associate with the League of Nations on condition that we came as we pleased, went as we pleased, and held ourselves bound by nothing but our own judgment and decision in every imaginable case. It is upon such conditions—it might be with a reservation couched in Senator Knox's very words,—that I now suggest our applying for Associate Membership in the League of Nations.

3

But with one supplementary reservation. The Knox resolution might be criticized as embodying the perfunctory endorsement of an ideal to which we are really indifferent. It makes the formal gesture of acquiescence but it lacks heart. For this reason the Knox resolution should be supplemented by some such statement as Senator Hitchcock proposed in the Senate on November 13, 1919, in the form of an amendment to the Lodge reservation to Article 10.

That Lodge reservation, it will be recalled, declared that the United States assumed no obligation to preserve the territorial integrity or political independence of any other country, or to interfere in controversies between nations, or to employ the armed forces of the United

States unless Congress in any specific case so provided by act or joint resolution. To this Senator Hitchcock would have appended the following:

"But, finally, it shall be the declared policy of our Government, in order to meet fully and fairly our obligations to ourselves and to the world, that the freedom and peace of Europe being threatened by any power or combination of powers, the United States will regard such a situation with grave concern as a menace to its own peace and freedom, will consult with other powers affected with a view to devising means for the removal of such menace, and will, the necessity arising in the future, carry out the same complete accord and co-operation with our chief co-belligerents for the defense of civilization."

The Knox resolution would thus lay down the fullest imaginable set of safeguards for our cooperation with the League. The Hitchcock amendment would affirm our sincere desire to co-operate with the League. And the plan as a whole could be properly described as the Knox Plan. *For it is to be noted that this Hitchcock amendment of November* 13, 1919, *is a restatement word for word, of Section* 5 *of a peace resolution introduced by Senator Knox on June* 10, *while the Treaty of Versailles was still in the making.*

4

What useful purpose, it will be asked, can be served by our associating ourselves with a League of Nations in respect to which we reserve the full right to determine "our own duties, relations and course of action," a

League whose covenants are to be binding upon us only when and as we see fit? Is not this essentially a trifling with words and tantamount to a refusal of cooperation?

The answer is that, under the Knox proviso, we should still be subscribing to the primal purposes of the League; and that is the idea of *conference* for the prevention of war.

The conference idea was the germ of the League of Nations and it is a more vital part of the League as it stands to-day than the structure of covenants, sanctions, and machinery which has been erected around the central idea. These covenants and sanctions will become of importance only as the habit of conference grows, with time, into the habit of submission to the verdict of conference. But for the immediate future the friends of international peace may be well content with the affirmation of the conference idea in itself.

Conference for the purpose of delaying war underlay British speculations upon, and early plans of, a League. And at Indianapolis, on September 4, 1919, President Wilson declared: "The heart of the covenant of the League is that the nations solemnly covenant not to go to war for nine months after a controversy becomes acute."

The essence of the League is the principle embodied in the "cooling-off" treaties of arbitration and delay which the United States concluded with twenty-six nations in the years 1913-14.

The case, then, as it should be presented to the American people is whether our fears of "entanglement" are not removed by a proviso like the Knox Resolution. We might go even a step further than Senator Knox and

exempt ourselves from the obligation to confer, which his resolution would seem to imply. We might stipulate that the decision to join or abstain from conference in any emergency is entirely for the United States to make.

In other words, we should stipulate that the right to come and go, to cooperate or refrain from cooperation, to abide by a decision of the League or to reject its decisions, is completely within our own competence. We assume no obligation to cooperate for peace. We announce a *predisposition to cooperate for peace.*

5

Three questions arise.

(1) Will the other Powers be willing to accord the United States the special status envisaged in the scheme I have outlined? (2) If they do consent, what of resulting wounded national susceptibilities? (3) Is it fair on the part of the United States to claim such a special position?

(1) The other nations will consent. It is now three years since Lord Grey's famous letter to the London *Times* in which he declared that the nations would welcome America's adhesion to the League on any terms it saw fit. From other capitals and other sources the same assurances have come in unmistakable terms.

(2) The question of national susceptibilities is largely answered by (1) above. But even if in certain quarters there should be a feeling of resentment over special privileges for the United States, the answer is that the world has much more serious things to think about than the refinements of international propriety and punctilio. We are dealing with a bitterly real problem. Lacerated

diplomatic feelings are of very minor importance as compared with a lacerated civilization.

(3) It is fair enough for the United States to claim a *special status* as long as it is not a claim for *special advantages.* Without arrogance it may be said that in cooperating with the League of Nations for the maintenance of world peace, the United States contributes much more than it asks. It is confessed abroad that the nations of Europe need our cooperation much more than we need theirs. It is true that we have found, by bitter experience, how sorely war in Europe can affect the United States. Nevertheless, the sparks of another world conflagration, if it should come, will be struck out not in the United States but in Europe, and we have far less to fear from such a calamity.

Our position would be, frankly and fairly, this:

As against wars in which we are the original party, we have already brought into play the principle of conference embodied in the "cooling off" treaties referred to above and supplemented by the treaties growing out of the Washington Arms Conference. We therefore rejoice to see the nations of the world setting forth to apply, *as among themselves,* that same principle of conference, embodied in the League of Nations. We are willing to contribute to the success of that experiment. But because of our geographical situation, our relative psychological remoteness from Europe, and other reasons which it is not necessary to mention, we wish to retain full liberty of action in our associationship with Europe. This is, for the United States, a fair and frank proposition.

6

Another possible objection arises.

How much real strength and prestige would accrue to the League from the adhesion of the United States under the reservations set forth above? Given a Power or a combination of Powers that sets out to threaten the peace of the world, by how much more will they be susceptible to the restraints of a League whose great "Associate Member," the United States, cannot be counted upon with certainty to act in concert with the League?

The answer is in the definition of what we mean by American "action." As I would define the word, American action means everything except American indifference. If the United States, in the face of a specific threat of war, shows its concern, and certainly if the United States signifies its willingness to confer upon and study the menacing situation,—that is action enough.

It is impossible to visualize a great war of the future in which either side will fail to take into very serious consideration America's possible influence; in which either side will not exert every effort to win our good-will; and in which either side will not regard as a calamity the definite swing of American sentiment against it. It will be a very rash would-be belligerent who will refuse an invitation to conference when the United States sits in conference, or who will refuse to give heed to a recommendation put forth by a conference to which the United States subscribes.

Our influence for peace may be exercised without

our assumption of covenants and obligations. Our presence will suffice. By associating with the League we shall help greatly to strengthen the League.

7

A final objection.

It will be argued that it is all very well to propose Knox reservations of the most sweeping nature, relieving us in advance of every imaginary form of obligation. There will, nevertheless, arise out of our associationship with the League a *moral* obligation which will be brought to bear upon us to our dislike and disadvantage; which moral obligation, as a matter of fact, we should be bound to recognize or be as a nation forsworn.

To this the answer is brief. The whole argument about *assuming* moral obligations is nonsense.

Moral obligations are not assumed. They are created for individuals and nations by the facts of life. We assume no moral obligation to render respect and affection to our parents or to render support and guidance to our children. No written instrument bound the American people to the moral obligation of sending food to the famine sufferers in China and Russia and to the earthquake victims in Japan. Yet the moral obligation to give aid was felt and acknowledged by the American people.

To-day an overwhelming majority of the American people acknowledges the moral obligation *to do something* for the removal of the horrors of war, and we feel that obligation as acutely as if we were original members of the League of Nations.

Moral obligations are not created by written instruments and are not assessed by them. They are created by life and assessed by our own conscience. Instruments and agreements only provide the means by which moral obligations are redeemed. The plan outlined above would give full play to the conscience of the American people.

VIII

INTERNATIONAL CONFERENCE

ON REDUCTION OF ARMAMENT AND TEN OTHER MATTERS

BY CHARLES W. ELIOT

Charles W. Eliot, long president and now president emeritus of Harvard University, is known to the American people generally as author, educator, discerning observer and constructive critic of public events. His published work includes: "Four American Leaders," "The Durable Satisfactions of Life," "The Road Toward Peace," and many articles on educational and social subjects.

VIII

AN INTERNATIONAL CONFERENCE ON REDUCTION OF ARMAMENT AND TEN OTHER MATTERS

The purpose of the American Peace Award, created by Edward William Bok, as stated by the Policy Committee, is to discover, evolve, or find the way to "the best practicable plan by which the United States may cooperate with other nations to achieve and preserve the peace of the world." The personal composition of the Policy Committee emphasizes this purpose to promote the discovery or evolution of a "practicable" plan. They are all persons who, having had experience in the conduct of large affairs, political, social, charitable, or professional, are likely to think that a great reform movement must be worked out by conference and discussion, and put into effect gradually as the advancing state of public opinion in the cooperating nations may permit.

Under these circumstances I propose the following action by the Government of the United States:—

1. That the Government call a Conference of all nations of the world at Washington not later than February 1, 1924.

2. That the United States pay the travelling and residence expenses of all the delegates to, at, and from the Conference, but that this payment be limited to three

delegates from each nation, and to a period at Washington not exceeding three months.

3. That the delegates from each nation be either elected or appointed; but that no head or chief of any nation or people shall be sent as a delegate.

4. That the presiding officer of the Conference be the American Secretary of State. That he shall select his staff as President of the Conference, appoint all its committees, and choose at pleasure the delegates with whom he consults in private.

5. That a Committee—the number of members to be determined by the President of the Conference—be appointed, if the Conference shall so order, to consider each of the eleven subjects mentioned and numbered below, and to make a report thereon to the Conference. Any Committee may be continued beyond the life of the Conference itself, if the Conference so orders.

6. That all votes of the Conference and its Committees, which are to be recorded and published, be decided by a majority of the members voting, the numerical and geographical distribution of the votes to be recorded and published in every case.

7. That the sessions of the Conference be open to the public and the press; provided that secret sessions of the Conference or of its Committees may be held whenever they seem desirable to the President of the Conference or the Chairmen of its several Committees, and that no report, either authorized or unauthorized, shall be made of any secret session.

In the sections numbered I to XI below I set forth a programme of action by the Conference, when assembled,

which would probably develop a "practicable plan" for cooperation by the United States with other nations in devising the means of world-wide peace, and in securing the general adoption of those means. This programme calls for the appointment of eleven committees to consider and report to the Conference, each on one of the eleven subjects referred to in paragraph number 5.

The Committees to be appointed, if the Conference so orders, shall be:

I. A Committee on the Reduction of Armaments on Land, Sea, and Air.

II. A Committee on the Abolition of Militarism.

III. A Committee on Prompt Arbitration of Industrial and International Disputes.

IV. A Committee on the Promotion of International Intercourse.

V. A Committee on Conquest and Exploitation.

VI. A Committee on Hostile Competitions in Production and Distribution.

VII. A Committee on the True Definition of a Successful Business.

VIII. A Committee on Cooperative Management.

IX. A Committee on the Relation of Law and Government Regulation to Public and Private Liberty.

X. A Committee on Family and School Discipline.

XI. A Committee on Religious Toleration and Unity.

I. A Committee on the Reduction of Armaments on Land, Sea, and Air.

All nations which promote the reduction of armaments on land, sea, or air are contributing to the abolition of war. The United States has already made some progress in this direction, but only a little; because the actual reduction of armaments which it has promoted is on the oceans exclusively, and really has effected only the stopping of competitive building of heavy war vessels on the part of a few of the leading maritime nations. Its motive was primarily economic; and even this motive was supposed to remain effective for only a limited period. As to the reduction of land and air forces, neither the United States nor any other nation has taken any action whatever, except that since the Armistice the United States has reduced its own Regular Army. Any effort the United States might make alone to effect reductions in the standing armies and munition works of Europe and Asia would probably be embarrassed by the opposition of the Establishments of both Army and Navy at Washington, not to speak of the dubious attitude of Congress.

The function of this Committee will be, indeed, a difficult one; but none will be more fruitful of peace, if it results in a "practicable" plan for reduction.

II. A Committee on the Abolition of Militarism.

Every country, civilized or not, now generates and breeds a considerable class of men who plan to spend their lives, and make their livings, in the study and prac-

tice of war. The only exception to this statement in all the world is the little Republic of Switzerland, which, though surrounded by strong militaristic governments, each of which would like to own the part of Switzerland that is contiguous to the territory called its own, has discovered how to maintain a well-trained and well-equipped army, always ready for instant service, and yet has abolished militarism within its borders.

All the nations now think it necessary to maintain effective armed forces to keep order at home, and to defend themselves against possible aggression from abroad.

If this Committee can persuade all of them to adopt the Swiss method of maintaining an effective military force it will greatly further the abolition of war between nations.

III. A Committee on Prompt Arbitration of Industrial and International Disputes.

The industrial nations of the world have been trying for more than a generation to develop a satisfactory method of arbitrating industrial disputes; but only France has arrived at a sound working method. In the United States very little progress has been made on this subject, because no method of constituting a satisfactory tribunal of arbitration has as yet been invented. Arbitrators or an arbitration tribunal should represent the public only, not the disputants. The disputants should be vigorously represented before the arbitration tribunal by legal counsel or other competent speakers, but should not make part of the tribunal itself. The single object of an arbitrator or a tribunal of arbitration

should be to settle an industrial dispute in the way which will inflict the least possible injury on consumers, or, in other words, on the public at large.

Arbitrators or arbitration tribunals may be highly successful whether or not they are entrusted with power to enforce their decisions. On the analogy of courts, such tribunals should have that power; but this analogy is not a sure guide when the disputes or contests are exclusively industrial, and arise between owners or managers on the one hand and their workmen on the other, including the workmen's unions.

It will surely be one of the most important duties of the proposed Conference at Washington to find the best method under existing conditions of applying arbitration in the settlement of international disputes.

IV. A Committee on the Promotion of International Intercourse.

Since the Armistice in November, 1918, several ways of developing friendly and instructive intercourse between nations that know but little about each other's needs and habits have come into use, but in an irregular way and without coordination. International conventions of men who conduct similar businesses in different parts of the world have been attempted, such as conventions of insurance men, labor leaders, telegraph and telephone directors, and steamer line agents, and foreign excursions on a large scale have been contrived by Rotary Clubs, learned societies, and like organizations. Legislators on vacation have travelled in foreign countries, not so much seeking to understand foreign ways, as to corroborate

views to which they have been already committed at home. Exchange visits abroad have been organized for students and for teachers in service; and much good has already resulted from that effort. Engineers have conferred internationally on the means of abating the difficulties they encounter when trying to execute considerable works in foreign parts. Missionary, medical, and philanthropic societies reach out for better knowledge of the peoples they desire to serve. People who hold the same religious views in different parts of the world are trying to get into contact, and to support each other.

The Committee on the Promotion of International Intercourse will have a very interesting field to study, and every step they can recommend to the Conference towards acquaintance and friendly intercourse between nations will be a step towards the advent of peace and good will among men.

V. A Committee on Conquest and Exploitation.

Among the familiar causes of war in times past has been the eager desire of one people to seize upon and utilize the agricultural or mining products of another people, near or remote, by the process called conquest in earlier times, but recently described as commercial exploitation facilitated by military or naval posts on the territory of the exploited people. The chief offenders in this aggressive proceeding during the past three centuries and a half have been Holland, Great Britain, Spain, France, and Italy, all of them strong maritime nations. The United States, since the adoption of the Constitution, has been the least offensive of all the civil-

lized nations in this respect, and in the one hundred and fifty years preceding the Revolutionary War the American people had ample room on the American continent itself for gratifying the adventurous instincts of the pioneering portion of the population. On the seas, to be sure, there have been more than enough American buccaneers in both the West and the East Indies, on the eastern shores of the Pacific, and the western coast of Africa; but they have always been recognized as private adventurers. Indeed, their vessels were often called "privateers." Of late years the influence of the United States has been occasionally used against this kind of conquest or exploitation by Occidental nations over Oriental.

It will be a great contribution to the general peace of the world if the Conference through the labors of this Committee shall bring about the abandonment of commercial exploitation of weak peoples by stronger ones.

VI. A Committee on Hostile Competitions in Production and Distribution.

The exploitation policy has had a supplement or corollary which has been energetically practised by several European nations for generations. Having got hold of agricultural products within the territory of some semi-civilized or barbarous people, they have then undertaken to control, each for its own benefit, the distribution of those products by means of tariffs, shipping regulations, and control of ports in the exploited nation's territory. This policy has in times past proved to be a fruitful source of war and of minor hostilities, because it leads

to acrid competitions for the carrying trade of the world, and these competitions again tend to develop bitter feelings among the competitors, and to bring into use at home laws or statutes intended to promote the interests of one nation at the expense of another.

It will greatly promote the abolition of war, if all the maritime nations will cease to engage in such competitions. It would also greatly promote the coming of durable peace, if there could prevail among all nations the following policy concerning, first, production, and secondly, distribution: — Every agricultural product shall be assiduously cultivated in the climate and soil most favorable to it, and by the population best fitted to do the work which its cultivation requires, and being so produced shall then be distributed over the world by those nations or peoples having the highest degree of skill in the complicated arts of communication and transportation, and able and willing to perform the distribution at moderate cost and without interruption.

The recent achievements in the sciences which contribute to agriculture, communication, and transportation have made possible great advances toward the acceptance of this policy; and the very latest discoveries in chemistry, physics, and biology promise prodigious future gains in these respects, especially in the improvement of agriculture. Many of the inventions and discoveries on these subjects have originated in the United States; and the history of the past gives assurance that the United States is likely to lead in the similar happy developments of the future.

The Committee on this subject will have an ample field for inquiry, invention, and persuasion.

VII. A Committee on the True Definition of a Successful Business.

Another powerful means of hastening the advent of peace throughout human society is the spreading of the true idea of a successful business, an idea which is chiefly due to American inventors, manufacturers, and business administrators within the adult lives of men still at the height of their powers. A successful business in this sense is one which is always increasing its product, paying good wages, caring for the physical and moral welfare of its employees and their families, and diminishing the prices of its products to an ever widening circle of consumers at home and abroad. If this definition of a successful business could be adopted all over the world, and put into practice among the leading manufacturing and commercial nations, a long step would have been taken toward the abolition of war; because the increase of production would tend to diminish the local difficulties which arise from over-population, and the increased consumption at lower prices would also tend to prevent unwelcome immigrations, caused by dread of scarcity of food or other necessary supplies in the minds of the migrants.

The student of history, who can recall the numerous flights of large bodies of human beings from one country to another in centuries past, will appreciate the strength of this hope for a coming era of peace among men. When one studies the motives or desires which brought about the great conquests and movements of armies, tribes, or clans into countries not their own and the resulting

fightings, one comes to appreciate the fact that every increase of production in agriculture, manufacturing, and mining, and every improvement in the health and morality of a population will diminish the chances of war in the world and the force of the motives which make for war, and will also multiply and strengthen the chances for the maintenance of peace through long periods in the future. The flight of Israel out of Egypt, the Babylonian conquests, the sweep of Alexander and his armies to the eastward, the colonization enterprises of the ancient Greeks, the rise and fall of the Roman Empire, the Crusades, and the rise of the British Empire are striking examples of such movements, at first martial but at last pacific.

On the other hand, every measure which diminishes the average death rate, promotes the fertility of women, and increases the number of children in a family who grow to maturity, creates an added demand for foods and fuels in the world at large, and so portends new kinds of dissension over the distribution and ownership of the available foods and fuels. The generation at present in full activity, however, must not expect to form any adequate conception of the increase in production which scientists are to bring about, or to imagine the remedies for the new struggles which may arise from greater average longevity. Enough for the present generation that it can see clearly a road to peace under existing conditions, and can develop the courage and vigor to pursue it.

The Committee on the True Definition of a Successful Business will have a fine opportunity to encourage hopes for peace on the one hand, and on the other to shut out

dread of new causes of war in the unknown future. What is now wanted is the general adoption of a right conception of success in business.

VIII. A Committee on Cooperative Management.

The great improvement developed during the last twenty years in the management of large industries is the method in which employers and employees work together through freely elected committees of the employees so that their results may be satisfactory alike to Capital and to Labor, and also to the public. Cooperative management has already been made successful in the United States in such diverse fields as railroads (the Pennsylvania System, for example), street railways (the Philadelphia Rapid Transit Company, for example), the numerous plants of the International Harvester Company, the shoe-making business on a great scale, and in hundreds of corporations or firms whose products are either necessities or luxuries, or a combination of both. The number of corporations and firms which have successfully established cooperative management is small relatively to the whole number of corporations and firms in the United States; but their success has been remarkable, and the lesson they teach is accepted more and more by owners and managers of public utilities and in all trades which deal with foods, fuels, and transportation. Europe, too, where cooperative management was earliest tried, affords many instances of decided success in the management of important industries by employers and employees working heartily together.

This cooperative management ought now to be carried

into international affairs. On that foundation a workable basis of cooperation among the nations of the earth can unquestionably be established. It is for the Committee on Cooperative Management to present to the Conference a practicable plan for securing this advance.

Beyond these practical measures for reducing the probability of war lie certain aspects of democratic society and of civilization itself which should be taken into account by the Conference. Hence the need of three Committees whose functions will be somewhat different from those of the Committees already named.

These additional Committees should be

IX. A Committee on the Relation of Law and Government Regulation to Public and Private Liberty.

X. A Committee on Family and School Discipline.

XI. A Committee on Religious Toleration and Unity.

IX. A Committee on the Relation of Law and Government Regulation to Public and Private Liberty.

The conditions under which a free people will use their liberty wisely and safely need to be set forth. The American people have always manifested habitual respect for Law, that is, for the opinions of the majority as formulated in laws which, indeed, may be amended or repealed by a new majority, but are to be obeyed by every body, until changed by a force similar to that which enacted them, and applied in a similar way. They believe that political liberty will be safely used, the world over, only when it rests on this kind of respect for this

kind of Law. They see plainly that too many laws are passed nowadays—particularly in the United States; but they also see that the Law in all countries is getting more and more flexible and adaptable to new conditions, rather than being held changeless and ruled chiefly by precedent and tradition. They see, too, that the best result of political and social liberty is variety in individuals, in the means of earning a livelihood, and in life careers. Not uniformity but variety should be the social and industrial aim of a democracy.

An interesting illustration of the widespread desire to get the Law put into as simple and adaptable a form as possible may be found in the recent incorporation of a group of distinguished lawyers under the title "The American Law Institute." This Institute has undertaken the heavy task of restating "the laws" in as simple a form as possible, primarily to aid judges in rendering decisions and legislators urged to enact new laws. The Institute realizes the difficulty of its undertaking, and expects to take ten years about it. The English Common Law as practised in England and America, with some assimilations from Roman Law as worked out and applied in Great Britain and the United States, supplies the vast material to which the American Law Institute expects to apply its simplifying and coordinating processes. The scope of the undertaking should obviously be international. As the number of peoples who may fairly be called free increases, it becomes more and more important that free peoples should be able to use their liberty safely, because they have respect for Law, and mean to obey it. To that end they all need to have the Law simplified and made more flexible.

The American people have long been averse to governmental restrictions on individual liberty, and on the liberties of private firms and corporations engaged in financial, commercial, mining, or manufacturing production. As the people have watched, however, the development of the costly and often cruel warfare between Labor and Capital, they have come to desire earnestly means of preventing the recurring destructive conflicts through action of government—national, state, or municipal—in the interest of the entire public. Three national Administrations have tried their hand at regulation, many governors and legislatures, and many mayors and city councils—thus far without any convincing success. Nevertheless, an immense majority of the American people of all classes are hoping and looking for an effectual intervention of democratic government in the industrial strife, not in the interest of either party to the strife, but in the interest of society as a whole, a society built on a principle laid down in 1618 by the Pilgrims' Pastor and Elder — "We do hold ourselves straightly tied to all care of each other's good, and of the whole by every one, and so mutually."

X. A Committee on Family and School Discipline.

Human progress in all past generations has been greatly hindered by the prevailing methods of bringing up children in the family and in the school—when there came to be any schools. The main motive kept before children was fear, fear of being beaten or otherwise hurt by persons stronger than they, fear of losing the childish gratifications dear to them, fear of being shut up in the

dark or of being deprived of food or outdoor play, fear of being driven into confining occupations unnatural and repulsive to them. Children who had suffered under such tyranny often became tyrants themselves when grown up. Adult men and women said: "What was good enough for us is good enough for our children; we will stick to the ancient ways; they are safer and easier than novelties." In boarding schools grown boys who had been caned themselves caned their fags.

These injurious practices on children and youth constitute a principal cause of the persistence of brutality in family and social life, and hence of the continuance of war and other forms of violence and cruelty. They have also contributed to the lingering in all nations, civilized as well as barbarous, of the unjust treatment of the woman by the man, for no better reasons than that she is physically the weaker of the two and the more liable to suffer from lack of tenderness and sympathetic care, especially during her child-bearing periods.

The American people have long led all other nations in the effort to change these injurious practices in family and school life; and during the last fifteen years they have made striking progress in this direction. As a matter of fact, American men are more considerate toward women and children than any other men in the world; and the new American schools called "Progressive" have embodied in their programmes and teaching methods the ideas of liberty for children, self-direction, learning by doing, developing interest in both manual and mental work, and the sense of responsibility through freedom in action more thoroughly than any other schools in the world; although several admirable leaders in the

improvement of school discipline have been Europeans, such as Froebel, Pestalozzi, Montessori, and Seguin.

If this Committee can advise the Conference how to produce a generation of teachers, enthusiasts for these new methods, and a generation of children brought up in the exercise of liberty and in freedom from fear, with knowledge of community hygiene, some skill of eyes, ears, and fingers, and some practice in group self-government, it will start a new era in politics and public health, and therefore will advance the just expectation of peace at home and abroad.

XI. A Committee on Religious Toleration and Unity.

Toleration in religion was firmly planted in the Constitution of the United States, and has been practised with increasing insistence as the population has become more and more heterogeneous in respect to race and religion.

It is much to be desired that toleration in religion should be extended throughout the world; for such extension would greatly improve the chances of maintaining both order and peace. Religious wars have been common in Europe, Asia, and Africa for many centuries past; and on these continents religious differences still incite men to hatreds or passionate dislikes which easily lead to violences and cruelties. On this subject the remarkable spread of Islam during the nineteenth century gives cause for anxiety; for Islam is divided into contending sects even more than Christianity.

In order not to interfere with the conscientious views of parents about religion and religious instruction, most

of the states in the American Union have taken action to exclude from the free public schools instruction in religion, or at least to restrict the giving of such instruction. Thus, some states have prohibited the reading of the Bible in schools. Others have forbidden state or municipal teachers to give religious or ethical instruction, or even to attempt to impart to their pupils the ordinary moralities and rules of good manners. This well-meant but dangerous legislation has resulted in the growing up of multitudes of children who have received no religious or ethical instruction whatever, their families being too ignorant or indifferent to give or get them any. Of course, a child who gets from mother or father that best of religious instruction, the combination of precept and example in an atmosphere of love, takes no considerable harm from his school's abstention from religious teaching; but it is agreed on all hands that the presence of multitudes of young persons who have received no religious or ethical training whatever creates new and alarming conditions for families, schools, and society at large. Hence, there has developed all over the United States since 1913 a growing distrust of this absence of religious instruction in the free schools; and at the present moment vigorous efforts are being made to prepare and get into use manuals and hymnals which would be generally acceptable to parents without regard to their religious affiliations, historical or actual, or to the absence of such connections. The persons who are taking the most active interest in this reform are superintendents, school committee men, headmasters or principals, teachers in public schools, and experienced educational administrators. They are seeking Unity in Religion as

well as Toleration. The main obstacle to the progress of this reform is not the bigotry of this denomination or that, or the zeal of this ecclesiastical system or that, but the indifference of the unchurched, who are thought by some statistical speculators to be a clear majority of the population. This search includes a common service in worship, the abolition of the requirement of subscription to a creed for admission to church membership, the use of Union Services at public festivals or in times of public anxiety, the practice of local federation among churches in some respects distinct, and the hearty cooperation of churches, which differ widely as to creeds, dogmas, and rituals, in fighting poverty, intemperance, the diseases of lust, malnutrition, and ignorance combined with sloth. It has already been demonstrated that cooperation in action against these evils has a strong unifying effect on the churches themselves and on the community at large.

There can be no doubt that the coming of peace for the world would be much hastened if that degree of unity in religion could be cultivated in Europe which is already being diligently sought for in America.

In the United States lay agencies like the Red Cross, the Public Health Services, the Temperance Societies, the Societies for Social Hygiene, and the Commissions or Bureaus created by Legislatures have taken over a large part of this much needed work in resistance to the physical and moral evils which afflict human society. The churches used to perform some of these functions.

If the proposed Conference at Washington can through a well-selected Committee devise a method of giving widely acceptable religious instruction in all institutions of education, it will make the best possible contribution

to the promotion of concord and peace among men; for, after all, religious motives have always been the strongest mankind has felt toward right conduct, except family loves.

Unity in religion, like peace, may be a far-off goal, but all mankind should try earnestly to move forward on the road toward it. The Committee on Religious Toleration and Unity will have a difficult but glorious function.

The foregoing proposal is founded on the belief that it is possible to unite for it persons and groups who have for four years past held different views about the League of Nations and the Treaty of Versailles, but have always felt a strong desire that the United States take a worthy part in achieving and preserving the peace of the world. It is not a compromise or a "readjustment"; it follows an old method—that of conference and discussion—but is a new departure.

IX

ORGANIZATION OF INTERNATIONAL TRADE IN RAW MATERIALS— AND OTHER PROPOSALS

BY ERNEST BRUNCKEN

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IX

ORGANIZATION OF INTERNATIONAL TRADE IN RAW MATERIALS— AND OTHER PROPOSALS

This plan aims, in Section A, at directly eliminating some of the most important causes of war; and in Section B at improving the means of gradually substituting law for force in the settlement of international disputes. In Section C there follows a brief consideration of supplementary matters.

THE CAUSES OF WAR

A distinction exists between efficient causes and mere occasions. Almost any dispute or "diplomatic incident" may be utilized by nations in a bellicose mood as a pretext for war, but a peaceful solution will be found easily when neither party has an ulterior reason for going to war. The assassination of the successor to the Austrian and Hungarian crowns would never have led to the World War, if there had not been more fundamental causes leading all governments of Europe to expect a war sooner or later, and some of them to wish for it at that particular time.

Measures merely making easier the settlement of issues that may be seized as plausible pretexts for hostilities are not measures "helping to preserve world peace." The

present plan therefore tries to attack the fundamental rather than the occasioning causes.

Such causes may be classed in two groups, material and psychological. Ordinarily, both must work together in order to bring about an actual explosion. Consequently, much will have been gained if only one set be eliminated. Especially the psychological group will rarely be sufficient, at least in modern times, to bring on war without an intervening material cause. The removal of the most important material causes will therefore be a long step toward the final goal.

1. *Material Causes.* These arise from natural conditions or the manner of their exploitation. Generally speaking they are economic, although political and social factors may also be present. Some economic causes are not so important now as they have been in the past. Among such, the most noteworthy are cases where a tribe or nation has become too numerous for the territory it possesses, and in order to find means of support tries to occupy for agricultural settlement additional territory already claimed by another nation. At the present time, Japan seems to be the only country which may be led into a warlike enterprise for such a reason. Other overpopulated countries, such as Italy, and perhaps Germany if its industrial life should completely collapse, would merely continue to send out great numbers of emigrants. This might easily lead to diplomatic incidents, but probably not to war.

More important are certain economic conditions affecting especially the most highly developed countries. The leading nations, particularly in Europe, are obliged in constantly increasing measure to seek the raw materials

for their gigantic industries outside their own boundaries, and markets for their finished products in foreign countries, largely the same in which they look for raw materials. To such countries the certainty of always getting enough raw materials and never lacking for markets is the most important of international problems. To solve it, they will even go to war. If in addition they are unable, like England and Germany, to produce sufficient food at home, this condition will be aggravated.

Theoretically, and in a world where no international rivalries existed, the ordinary methods of commerce would be sufficient to furnish all food and raw materials needed in exchange for finished products. Actually, each nation is anxious to get as much for itself as it can, without regard to whether it thereby deprives another nation of its fair share. For it is afraid that others, in order to assure a supply in future as well as at present, may exclude it from the sources. Moreover, in the industrial rivalry of the nations each tries to get more than it needs at present, because it knows that each additional ton of raw materials and food will soon transform itself into an increase of population, which in turn means increased ability to make finished products exchangeable for raw materials and food, and consequently an increase in power, economic and political.

The principal sources of raw material are found in the so-called backward countries, like Turkey, Persia, and China, and in those parts of the world not yet civilized, like large portions of Africa. One of the simplest means of assuring for one's self the desired share is to acquire political dominion over a large part of such portions of the earth. Moreover, the large amounts of capital con-

stantly accumulated in the industrial countries cannot all find investment at home, but are used in those outlying parts of the globe; and again the first method thought of to insure their safety is political domination. Each nation feels that the world is not big enough for the ambitions of all, and if any must suffer, it shall not be itself. Under such conditions, recurrent wars are hardly avoidable.

If, therefore, a fair proportionate amount of raw materials and a sufficient quantity of food could be assured to all the nations participating in modern industrial life, one of the principal causes of war would disappear.

2. *Psychological Causes.* Predisposing causes of war may be found also in average human nature. One group of such causes, namely passions like anger, hatred, revenge, lust of blood and combat, is not so important now as it used to be in primitive times, because amid the complicated processes of modern life these passions are likely to cool off before national wars result; but others, which we may call sentimental, are still menacing. Among these is that rather exaggerated nationalism which leads people to sacrifice life, treasure, and common human sympathies, to an ideal of national greatness, sometimes fantastic enough, and usually represented by the national language, culture, and political power. Another sentimental cause is a feeling that one's own nation is somehow entitled to superiority over others, to the "hegemony" or leadership either in a particular portion of the world or anywhere on earth. This feeling is best illustrated by the century-old antagonism, on the one hand of France and England, on the other, of France and Germany. A third sentimental cause is the crusading spirit which

seeks to save the world by making every nation conform to one's own beliefs and customs, even if this has to be done by war and bloodshed. This has not recently been so powerful as before, but a strong recrudescence of it is making its appearance in Russia.

Other psychological causes could be mentioned, but it is not necessary for present purposes to enumerate them all.

A. ORGANIZATION OF INTERNATIONAL TRADE IN RAW MATERIALS

It is proposed to keep the conditions briefly described in section 1 of the preceding part from bringing about war, by international regulation of the supply and distribution of those raw materials essential for modern industry, and also of the opportunities for investing capital in transportation lines and other means of developing the backward and uncivilized countries.

This cannot very well be done by the direct action of governments or agencies wholly dependent on the various governments. However, it will be possible, under existing commercial and financial conditions, to organize the various groups of financial and business enterprises into one or more "cartels," supervised by the governments, and having the following duties:

1. To regulate by appropriate rules the exploitation of the natural resources from which the raw materials included in the scheme are derived, so as to prevent waste and conserve them for as long a period as possible.

2. To determine periodically the proportion of the raw materials required by the industries of the

various countries, in accordance with equitable rules previously adopted.

3. To supervise the execution of the regulations made.

It would seem essential that the supervision of the regulating cartels by the governments shall not lead to the establishment of a gigantic international bureaucracy, attempting to interfere with the actual conduct of business. The supervision should be strong enough to compel the cartel to keep in mind the purpose for which it is organized and to prevent it from considering merely the advantage of its member business concerns. The function of the government representatives would be in many ways analogous to those of our Interstate Commerce Commission.

The form of organization of the cartel or cartels is not essential, and a detailed scheme need not be set out in this place. However, the author believes that the governing body should not be a board, the members of which would be directly responsible either to the constituent business members or to the governments. Instead of that, a corporation would be preferable, which would be autonomous within its own sphere, and in which both the member concerns and the governments should be represented in such proportions as may be expedient, so as to give the government members power to prevent action inimical to the public good. If, instead of an autonomous corporation, a board appointed by the member concerns and governments jointly, or in any other way, were adopted, there would be danger of each member of the Board seeking to get as much advantage as possible for the concern or country he represented. The meetings

would resemble a diplomatic conference for negotiation, rather than a legislative or judicial body having no interests except the attainment of the ends for which it is organized.

Regulation of international trade by cartels, agreements and combinations is not a new thing. Only, in the past such regulations have been for the purpose of benefiting the member concerns exclusively, by the prevention of uneconomical competition or otherwise. The workings of such organizations have largely been kept secret, and there has been no government supervision. Motives similar to those that have led the United States and other governments to regulate the domestic activities of large industrial combinations must eventually lead to regulation of their international functions.

Among actual international cartels may be mentioned: The Baltic and White Sea Shipping Conference; the Union des Mines, for the exploitation of Morocco; the various international steel rail organizations; the various nitrate combines; the so-called Atlantic Shipping Trust; note also rumors gradually becoming public regarding the connection of the Standard Oil interests with such European manufacturing groups as the De Wendels and certain German electrical concerns, or of the Morgan group with Stinnes, Schneider-Creuzot and other European magnates.

The international control here proposed does not involve interference with the full power of the several governments to regulate the business activities of their nationals, except as these enter into the international distribution of raw materials.

In organizing the system of international control, it

would, if deemed expedient, be possible to make use of the machinery provided by the League of Nations.

What classes of raw materials are to be subjected to this control, would be a matter of agreement. Among those occurring to the mind at once are mineral oils, coal, iron, copper and other ores; the precious metals; nitrates and other fertilizers; lumber and other forest products, so far as they are not produced in cultivated forests; fisheries on the high seas, and especially in the unappropriated parts of the polar regions.

It is true that the regulations adopted could probably not be enforced while countries were at war; but that calamity would probably be much less likely to occur if the fear of being left without raw materials or food supplies were largely eliminated by the system.

INTERNATIONAL INVESTMENTS

Either the same cartel, or another organized for the purpose, should regulate investments in backward, independent countries, and possibly in mandated districts, in some way which would give to the investors of all nations equal opportunities. The system of obtaining concessions in such countries is now notoriously a source of dangerous rivalries. It should be placed in the hands of an international agency. The countries poor in capital would find it to their interest to agree not to grant concessions except through the international cartel, because the present method is obviously a menace to their independence. The great industrial nations with capital to invest could probably be induced to forego the chance of using the investments of their nationals as instruments

for acquiring political domination, if they were assured that the distribution of concessions would follow some equitable rule under which they would get a share proportionate to their power. The arrangements here proposed, especially with regard to the backward independent countries, would require changes in some of the treaty relations now existing. It would be the business of the countries entering the cartel to take the necessary steps.

Such an organization of international trade would be in furtherance of the "open door," which is an established principle of our foreign policy.

NECESSARY DIPLOMATIC STEPS

Obviously, the proposed organization would require some time to bring about. The most expedient way of approach may depend on facts peculiarly within the knowledge of the Department of State. Steps here suggested are merely tentative, and adoption of another method does not affect the realization of the principle.

a. The United States government would first consult with the leading financiers and representatives of the concerns controlling the interests affected. Without their sympathy and cooperation; the plan would find difficulties otherwise avoidable; but it ought not to be hard to convince a majority of this group of the wisdom of some such organization, even from the point of view of their own interest.

b. Thereupon the detailed draft of a convention should be prepared, with the assistance of the industrial representatives. Experience has shown, both at The

Hague and at Versailles, that the omission of such a draft is fatal.

c. The President, after having received the endorsement of the draft convention by the Senate, and if expedient, by both Houses of Congress, would invite the Powers to a conference for the discussion and eventual adoption of this draft or a modification of it.

It will not be necessary that all nations should immediately agree to a convention, nor that all classes of raw material coming within the principle should be included at once. Even if the Conference should not result in the adoption of the scheme by all the nations, it would still be possible for the United States to enter into a group of separate treaties with groups of countries, based upon the principle, and realizing it so far as possible at the time. This would be analogous in many respects to the treaties for obligatory arbitration entered into by this government after the Second Peace Conference at The Hague failed to adopt the obligatory principle. Every such treaty would be just so much gained for eliminating chances of war, and would make the complete realization of the plan more probable.

After the new system is in operation, any disputes that cannot be settled by the cartels themselves would be matters for the Permanent Court of Arbitration at The Hague, the Court created by the League of Nations, or the new International Court proposed in Section B.

B. THE REFORM OF INTERNATIONAL LAW

The psychological causes of war can be wholly removed only by a change in average human nature, so profound

that to practical men it becomes an unrealizable ideal. The present plan looks only to the lessening of those causes we have classed as sentimental by proposing an effective improvement in the scope and character of international law, and an improvement in the machinery of resorting to it instead of to war.

Contrary to a widely spread illusion, there exists no body of law regulating the mutual rights and duties of independent states. International law now means but a mass of conventional agreements, customs, and opinions of jurists, regulating precisely such matters as, under existing conditions, are little likely to lead to war. The numerous arbitration cases on record deal almost exclusively with such matters; moreover, the very term "arbitration" implies an extra-legal authority on the part of the arbitrators, and this is resorted to where there is no legal rule covering the case. This prevents governments from submitting to such tribunals questions of importance great enough really to threaten war, because they can hardly expect the arbitrators to be impartial. If the case were covered by a definite, previously known rule of law, the justice of which was conceded by all, this difficulty would disappear.

There are several classes of questions, notoriously breeders of war, which it would be perfectly possible to regulate by definite legal principles, so that a court would have no more difficulty in bringing a given state of facts under them, than in cases arising under the law of a single state. The difficulty lies in getting nations to agree upon the formulation of such rules.

Among the matters of this character are: The self-determination of peoples regarding the sovereignty to

which they will submit; the treatment of minorities compelled to live under a sovereignty other than their own nationality; the cases in which the boundaries of a state may justly be determined by considerations other than nationality, such as economic, geographical, historic or defensive reasons; the extent to which the internal affairs of a nation may be interfered with by its neighbors; the treatment of uncivilized tribes. The organization of trade, as provided in Section A, would of itself furnish additional rules.

Agreeing on a formula to express a just principle for these and similar matters is difficult, not on account of the inherent character of these questions, but mainly because many nations are at present conscious of offending, or wishing to offend, against any just rule at all likely to find universal approval regarding one or the other of these subjects. If the political map of the world, and especially Europe, could be changed to conform to such rules, nine-tenths of the aversion to submitting important disputes to a court of justice (not "arbitral justice") would disappear, and the deep-rooted sentiments now in numerous cases making war acceptable and even welcome to the masses would likewise disappear.

Without blinking the difficulties to overcome, the first step should be to create a body of law covering by abstract principles and rules as many as possible of these notorious causes of warfare.

METHODS OF ACCOMPLISHMENT

For this purpose the United States government should invite the other governments to join in calling together

a congress of eminent jurists, economists, representatives of business and labor, of the various religions, of educators and others capable of taking part in crystallizing the opinion of the world regarding what constitutes international justice. A committee of lawyers would formulate the result into a set of legal principles.

After an interval, during which public opinion could become settled, there would be a congress of governments to enter into a convention pledging themselves to conform their future action to the principles adopted.

Provision would be made by which governments, or the representatives of national minorities having a grievance, would bring their cases, so far as they come under the accepted principles, before the World Court for adjudication, strictly according to previously known law and without any arbitral discretion, except possibly in a limited manner analogous to the discretion an American court of equity exercises in formulating its decree. At present many arbitration decisions, even when they purport to be based on legal considerations, have for their foundation merely a vague feeling of justice.

It is not necessary, as part of the plan here proposed, to discuss the organization of the Court of International Law which is a necessity for its success. Either the Permanent Court of The Hague Convention, or the World Court of the League of Nations could be adapted for the purpose; or an entirely new court could be established. The essentials of the choice of judges and the constitution of the court are those outlined in the instructions to the United States delegation at the Second Peace Conference at The Hague.

An important point, in the author's opinion, is that

the Court should simply render its decision, but that no provision be made for compulsory execution. As long as a decree is based on mere general sense of right and wrong, provisions for enforcing it are needed, because the losing nation easily persuades itself that the arbitrators were biased. As soon as the decision goes on a legal principle, known in advance to everybody, it would require unusual hardihood to refuse compliance. All forcible execution constitutes war; it denies the very purpose of the reform, even when disguised as an economic boycott; which practically may mean the death of women and children from hunger.

The proposed extension of international law and the machinery for its application need not at once be adopted by all, or even a majority of nations. As soon as a few have done so, and especially as soon as an existing wrong has actually been righted by its working, there will set in an irresistible tendency for other states to join. Public opinion will simply compel it. There will be a principle of growth inherent in such beginnings that must, in the course of a few generations, in the consciousness of mankind make war what it is now in a metaphorical sense only, to-wit: a crime.

International legislation, such as is here advised, is not an altogether new thing. A considerable portion of the conventions which constitute the only really substantial, formulated part of international law as it is to-day, consists of agreements to observe certain rules. Such agreements are simply a form of legislation, the only form possible where the law is to apply to sovereign states. The new step will consist in applying this form of legislation to the really important subjects, those most likely

to cause wars instead of mere diplomatic incidents capable of serving as pretexts. Most present conventional rules deal with such things as the rights of diplomatic representatives, the rules of civilized warfare, and especially the capture of ships and cargo by belligerents. The author recalls but a single such law touching upon a vital matter, and that provision unfortunately is vaguely drawn. This is Article XXI of the Covenant of the League of Nations, recognizing the validity of "regional understandings like the Monroe Doctrine," but failing to define what that doctrine may be.

It would be folly to contend that the extension and formulation of international law is an easy task, or that it will not be difficult to persuade all the governments of the world to take part in such labors. Precisely those countries most likely to get into war within the near future will be most reluctant, because they will see themselves among the first litigants before the new World Court, and are by no means certain of winning their cases. However, it may even be an advantage to let such nations stay out of the original legislative Convention. This will increase the likelihood of formulating the rules with an eye single to their justice, without having before the minds of the participants the outcome of an anticipated special case. As soon, however, as such a rule, approved by the conscience of mankind, has been adopted by a respectable number of countries, public opinion in the non-participating states will begin to exert its pressure, for the fundamental sense of justice is the same in all mankind. After a while, such opinion will become strong enough to back up some courageous government in acceding to the rule and acting accordingly, even in the

face of some strong traditional sentiment within the nation.

To initiate a reform of this kind is peculiarly appropriate for the government of the United States. For of all the great powers, America is least chargeable with flagrant injustiees toward other nations, although we may not be wholly guiltless. Moreover, the United States has taken a large and honorable part in the development of international law to the point it has thus far reached. To mention but one illustration: The modern development of the practice of arbitration may be said to date from the first set of treaties of amity and commerce this country negotiated, while the application of the principle in the case of the Confederate cruisers gave the practice a prestige it had never enjoyed before.

The possibility, perhaps even the probability, that the first proposal for international legislation may not find an enthusiastic reeeption in every country should not be a deterrent. Even the setting up, by a great nation through its official representatives, of an ideal to be striven for would be an achievement and would make new wars more improbable by its appeal to the eonscience of the world. But there is really no need to fear that the trained intelligence of all nations would fail to rise to the opportunity for formulating at least a tentative draft of laws, or that a number of states would not be found to adopt them. But if not, it would not be the first time that the United States has set up a standard and adhered to it, although its realization in practice has not yet been accomplished. The world remembers that for a long time the United States has been in favor of the relief from capture of private property at sea; and

while during the recent disturbed state of the world our government found no opportunity to emphasize this principle, it has never abandoned it.

C. SUPPLEMENTARY CONSIDERATIONS

If the two branches of the plan here presented were completely realized, not only would many of the causes of war be removed, but the current of development set in motion would almost automatically eliminate in the course of time whatever probability of armed conflicts still remained. There remains nevertheless, the danger that war may interrupt this evolution; and the following suggestions may be considered as part of the plan, because their observance will aid in launching the organization of exploiting and distributing raw materials, the regulation of investments in backward countries, and the functioning of the elaborated system of international law.

1. The prevention of war during the transition period will be the daily business of diplomacy using substantially the traditional methods. These have not been so inefficient as is often believed by the public. For after all, they succeeded during a whole century, from 1815 to 1914, if not in keeping the peace altogether, in keeping local wars from becoming general (with the partial exception of the Crimean conflict), even during such dangerous crises as the three wars preceding the foundation of the German Empire. So far as this country is concerned, diplomatic methods have kept the peace between us and Great Britain, notwithstanding many causes of

friction and a large extent of not very well defined border.

2. In the face of numerous interests, both national and economic, for which wars have their advantages, every instrumentality for creating a powerful public opinion in favor of peace, including a conviction that general and permanent pacification is possible, must be welcomed and promoted. These instrumentalities, ranging from official bodies like the League of Nations and The Hague Court of Arbitration, through the many international organizations for scientific, economic and social welfare purposes, and institutions like the Carnegie Endowment, to the various "peace societies," deserve every kind of fostering. It is to be hoped that all of the private organizations may come to see the unwisdom of attaching themselves to any particular political movement and will devote themselves exclusively to pacification, without arousing unnecessary antagonism.

3. General disarmament is closely connected with pacification. However, as no action of the United States government can with one stroke remove the danger of war, it will presumably be wisest to solve the disarmament problem without direct reference to the general problem of pacification. It is therefore not considered as pertinent to the plan here submitted. Nor is the consideration of proposals intended to make the beginning of war difficult, such as the requirement of a popular referendum on a declaration of war; or measures striking at real or supposed interests in fomenting warfare, such as the prohibition of private manufacture and trade in arms. All these do not conflict with this plan, and may become auxiliary to it.

CONCLUSION

The plan here proposed has, in addition to what may be its intrinsic value, the following characteristics making it a practical measure:

1. It is not dependent on the present state of international relations, but may be pursued, even if the complexion of the world should again be changed, through war or otherwise.

2. It is not a radically new departure, but contemplates the further development of existing conditions and tendencies.

3. It is not substantially affected by future changes in the social, economic, or political condition of the world, or any of the separate countries.

4. It does not depend on any change in the moral or intellectual attitude of great numbers of people, but takes average human nature as experience shows it to exist to-day.

5. It does not depend on the initial assent of all nations.

X

PREPAREDNESS FOR PEACE

AN AMERICAN ADAPTATION, ON THE VOLUNTEER PRINCIPLE, OF THE SWISS CITIZEN ARMY

By JOHN McAULEY PALMER

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X

PREPAREDNESS FOR PEACE—AN AMERICAN ADAPTATION, ON THE VOLUNTEER PRINCIPLE, OF THE SWISS CITIZEN ARMY

SYSTEM

1. Before outlining the plan of world peace proposed in this paper, it will be desirable to start with a scientific definition of war. It will also be convenient to consider this definition in connection with the evolution of modern military institutions and the influence of these institutions upon the general problem of peace and war.

> *Definition.—War is not a separate thing in itself. It is simply a special form of political intercourse;* or, to state the same idea in another way: *War is policy acting by other means.* For a full exposition of this definition, see Clausewitz *On War* (*Das Krieg*).

2. *Types of Military Institution.*—The definition of war suggests two types of military institution:

(*a*) A defensive type based on the idea that if a nation is prepared to resist military aggression, no other nation in dealing with it will be tempted to substitute war for the normal peaceful forms of political inter-

course. This is the type of military institution proposed by Washington. He called it a "respectably defensive posture." The Swiss military system is a fully developed example of this type. *Such a military institution is conservative of peace and is non-provocative of war.*

(*b*) An offensive type based on the idea that if a nation is always prepared for aggressive war, it can enforce its political will on other nations. It can do this directly by victorious war, and indirectly by the threat of war when there is a disposition to oppose its will. This is the type of military institution developed by Frederick the Great and perfected by his successors. *Such a military system is menacing to peace and provocative of war.*

A failure to appreciate the distinction between these two types of military institution accounts for a great deal of false reasoning and misunderstanding relative to the problem of war and peace. Many earnest friends of peace oppose any form of military organization because they assume that all military institutions are of the aggressive or provocative type.

3. *Historical Development of the Defensive Type.*— Washington proposed and Congress, in the Act of 1792, partially developed, a territorial Citizen Army. The country was to be divided into military areas. Within each area a local unit was to be formed and was to be officered by citizen soldiers of the neighborhood. All able-bodied men within these areas were liable to military service. The original corps of officers and non-commissioned officers were to be tried veterans of the Revolutionary War. These original leaders were to be replaced

gradually by their younger brothers and sons as they became qualified. This system in its general features was ideal. It was to be an American defense system in all essential respects like that of Switzerland. It failed, not because the organization was intrinsically unsound, but because the Federal Government was unable under the conditions then existing to assure proper standards for the qualification and promotion of officers and non-commissioned officers. This led to complete failure of the system in the War of 1812. After the War of 1812, most practical men rejected the entire system without reflecting that its failure was due to remediable causes. The Washingtonian system as actually developed had failed, but the people with sound political instinct refused to accept a defense system on the alternative basis of an expansible standing army. The result was no national military organization in time of peace.

4. *Historical Development of the Offensive Type.*—Bismarck, with a true appreciation of the Clausewitzian concept that war is merely a particular form of political intercourse, developed the Prussian army as a means of accomplishing his political objective—a united Germany. Under von Moltke, he constructed a highly efficient conquest machine. He used this machine effectively in 1866 to establish the political supremacy of Prussia in Germany. He used it again in 1870 to free the Reich from the political interference of imperial France.

Up to 1870-71 it may be said that the German military system as a political agency had been employed to accomplish legitimate political objects. But with resis-

tance within Germany overcome and with no further danger of external interference, there was no further legitimate political use for a conquest machine. If still maintained it must find its grist outside of Germany. It was time, even under the Clausewitzian conception, to modify the military system to meet the new political situation.

Bismarck, however, had used the von Moltke military machine not merely to attain a united Germany, but also to establish autocracy and to destroy German liberalism. The army was officered by the aristocracy and was employed to train the youth of Germany in subserviency to autocracy. This required the continued maintenance of a large army with its aggressive autocratic form unchanged. In order to meet legitimate defensive requirements the German army might have been reduced in size and modified in form, but this must necessarily have resulted in the renascence of liberalism in Germany. We find then that Germany continued to maintain a conquest machine after its legitimate political objects were accomplished. We find this militaristic organization closely allied with the interests of autocracy. It might have been predicted with certainty that if this machine were maintained after its legitimate object had been accomplished, it must eventually find an illegitimate political objective. This was the positive cause of the World War. Its negative cause is to be found in the opportunity and temptation offered by the world democracies which as a group were unorganized even for defense.

5. *Characteristics of the Swiss Military System.*—At the time the World War broke out, the great world

democracies, Great Britain and the United States, had no organized system of national defense. America had rejected the advice of Washington, and Britain had rejected Lord Roberts. France had an efficient military system, but as neither Britain nor America was capable of giving her any immediate effective support if attacked by Germany, she had been forced to rely on herself alone and had therefore been required to develop her full military resources for immediate employment. The almost complete unpreparedness of her sister democracies had compelled France to endure the burden of militarism. We are therefore unable to find an historical example of a military system of the true defensive type among the world's great democratic nations. Fortunately, however, the type is fully developed on a small scale in Switzerland. Switzerland has no standing army at all. *And yet on the outbreak of the World War, with a population about that of Massachusetts, she mobilized a completely appointed modern army of* 300,000 *men in four days.* Her mobilization was completed before that of Germany. Her army accomplished its mission of insuring neutrality of Switzerland and the inviolability of her soil. Space does not permit a detailed discussion of the Swiss system, but it is based on the idea that *all* Swiss citizens must be trained to serve as private soldiers in the national citizen army and that *any* Swiss private can rise step by step to the highest command provided he will prepare himself for each step in promotion and undergo the necessary tests of qualification. The leaders of the Swiss army are also the leaders of Swiss democracy. Their training for national defense is a part of their training for democratic citizenship. If America

had followed Washington's plan for national defense and if all citizens had been required to prepare for it, under qualified leaders selected from among the people themselves, we should have had a defense system identical in all essential respects with that of Switzerland.

6. *Cause of the American Civil War.*—It is generally recognized that aggressive military institutions may *provoke* war, but it is not so generally recognized that the lack of sound defensive institutions may *invite* war. A consideration of the causes of the American Civil War will throw light on this question. A growing political majority proposed to restrict and ultimately to extinguish the institution of Slavery. The minority found that it must ultimately submit to this majority if it continued to rely upon normal political means. Being tenacious of its views, before yielding it weighed the possibility of avoiding political defeat by resorting to the *other means,* as Clausewitz would put it, that is, war. As the American people were without any military training or organization and as the war must be a war of invasion and coercion on the part of the North, any competent military expert must have pronounced the odds of military success greatly in favor of the South.

But suppose the country had been organized as Washington had proposed to organize it with a territorial citizen army distributed on the basis of population. In this event, for every organized battalion in the South there must have been three organized battalions in the North. In these circumstances no sensible man could have found the slightest chance of success in an appeal from normal political means to the other means. The probability of

this conclusion is strengthened by examining another historical instance. Secession was also attempted in Switzerland. In 1847 a minority group of cantons formed a separate confederacy or Sonderbund as it was called. This was the result of several years of sectional controversy. The conditions were similar to the conditions in America in 1860 except that Switzerland had a national military organization. The majority of the cantons immediately mobilized. The minority leaders found an organized military majority as well as a political majority opposed to them. They therefore dissolved their confederacy and returned to normal political action. Under such conditions the appeal to arms offered no prospect of success. It was therefore abandoned. *The Sonderbund came to the peaceful conclusion that all political minorities must come to when they find that they cannot hope to resist the will of the majority through war.* The Swiss military system prevented Civil War in 1847 just as it preserved the neutrality of Switzerland in 1914. This is a remarkable historical confirmation of Washington's dictum that "to be prepared for war is one of the most effectual ways of preserving peace."

The American Civil War came because the Washingtonian political system had been adopted only in part. We had adopted Washington's governmental system as embodied in the Constitution, but we had rejected his "respectably defensive posture." If the minority favoring secession had not been lured into war by the prospect of probable military success, the problem of Slavery must have been solved in America as it was solved in Russia and later in Brazil, by normal political means.

Political machinery for the peaceful adjustment of political controversies is of great importance. But its advocates should not overlook the fact that the American federal system with its Executive, its Congress, and its Supreme Court, was unable to adjust the one and only *casus belli* that ever arose between the states. On the other hand, if the American people had also been in the "respectably defensive posture" proposed by Washington, the same political agencies must have solved the slavery question without war, because under these circumstances, the disgruntled minority would not have been even remotely tempted to resort to the Clausewitzian "other means."

7. *Cause of the World War.*—When we finally went into the World War it was recognized that it was a war of autocracy against democracy. This was just as true in 1914 as in 1917, though we did not recognize it. It is now known that the autocratic group had been preparing for years for this particular war. Indeed, the World War was simply the culmination of a century-old reaction of autocracy against the modern democratic movement which originated in America in 1776 and which entered Europe in the French Revolution. Autocracy was completely and consciously organized for this conflict with the appropriate military institutions of the aggressive type as an integral part of its political system. The democratic nations as a group were not organized even for defense. One of the great democratic nations, France, had a national military organization. Neither America nor Britain had any organized system for employing their man-power, effectively and immedi-

ately, for national defense. In this situation lies the true cause of the World War. It was like the interaction of a *high area* and a *low area* in producing a typhoon. There was a *high area* of aggressive military organization in the region of autocracy and there was a *low area* of under-militarization in the region of democracy. Hence the inevitable storm. If America and Britain had followed the advice of Washington and Lord Roberts to include true defensive arrangements in their political systems, the autocratic organization would not have had the stimulus of alluring opportunity. With Britain and America in a "respectably defensive posture" in 1914, the Central Powers could not have been tempted to provoke a war. Furthermore, if Britain and America had been in a "respectably defensive posture" continuously from 1870 to 1914, it would have been politically impossible to maintain and develop autocratic militarism even in Germany. It was the lure of world conquest as a feasible military enterprise that made the German people submit to so great an economic and social burden. Without this lure, Germany must have modified her military institutions to meet true defensive requirements. This would not only have prevented the armament competition of the past half-century but must have modified Germany's internal political organization. With no external political motive for maintaining the aggressive nation in arms, it could not have been maintained as a national school of subserviency to autocracy. The result must have been a gradual return to the liberal political ideals of 1848. It was the military weakness of the liberal democratic nations that made the War Lord and *Welt Macht* possible.

8. *Conclusions from the Historical Discussion.*—(1) If America had adopted the respectably defensive posture proposed by Washington, the Civil War could not have occurred.

(2) The history of the American Civil War shows that even the most perfect political system, including the fullest executive, legislative and judicial powers, cannot insure a peaceful solution of a political controversy if one of the parties to the controversy is able to enforce its will by resort to arms.

(3) The history of the American Civil War shows that if the American people had been armed and disciplined for their own defense as Washington wanted to make them, the ordinary political agencies of the government must have solved the issue at stake without war, because under these circumstances the disgruntled minority could not have been tempted to resist the will of the majority through war.

(4) The history of the American Civil War shows that the most complete federal system, even when established in an environment of complete disarmament, cannot prevent war between two political groups when one of these groups is able to find its interest furthered by war rather than by normal political action.

(5) If Britain and America, as well as France, had been in a "respectably defensive posture" the World War would have been impossible.

(6) If the world democracies had included true defensive arrangements in their political systems, the autocratic nations would not have had the incentive of probable military success to encourage them in the development of their offensive armaments.

(7) Without the lure of world conquest to encourage them to bear the burden of aggressive armament, the peoples of the autocratic group of nations must have modified their military systems to meet legitimate defensive requirements. Without the support of militarism as an integral part of the autocratic system, autocracy could not have resisted the growth of liberal institutions.

9. *The Organization of World Peace.*—Organized world peace is practicable under two conditions:

First, that the nations as free sovereignties find and develop all effective means of frank conference and just understanding.

Secondly, that the peace-loving nations at all times be so strong for defense* that no disgruntled minority can be tempted to seek more than justice through force.

If these two conditions are satisfied, there is no problem affecting humanity that cannot be solved by the human mind without resort to war. But it must be distinctly understood that the two conditions are inseparable. The mere provision of machinery for peaceful adjustments is not sufficient. Indeed if one of the conditions is to be sacrificed, it would be better to sacrifice the first condition rather than the second. The World War came, not because there were insufficient means of peaceful negotiation and adjustment, but because one

*This is the only effective sanction consistent with independent national sovereignty. The only other solution is a strong supergovernment. But Swiss and American experience suggests that even a supergovernment cannot insure peace unless its member states are in a "respectably defensive posture."

party preferred to assert its will through war and the other party was so weak as to encourage that enterprise.

10. *The Washington Agreements of* 1922 *and Their Future.*—The Washington Conference laid two important foundations of world peace in the limitation of naval armament and in the establishment of effective machinery for a constructive solution of the Far Eastern problem. These two foundations were accepted because at the time of the conference, the preponderance of world-power was held by the nations that sought peaceful adjustments. This was largely so because at that time America held the balance of military and naval power. It was not American idealism that prevailed, but the fact that for the time being, organized world might was back of that idealism, if necessary. America was just as idealistic and just as devoted to peace in 1914 as in 1921. In 1914 she was an international negligible because she had no effective military institutions. In 1921 she had a great navy and four million citizen soldiers recently trained in war. Whether the Washington agreements are to survive and expand into a more perfect organization of world peace depends upon whether America remains in a "respectably defensive posture."

America's world position is unique. She is the only nation capable of impregnable defense without making her defensive posture even remotely a provocative gesture of offense. If she develops this God-given heritage, her influence for better world organization will be irresistible. If she abandons it, she will not only endanger

her own security but will encourage the rise of new militarisms in the future.

11. *Our True Military Policy.*—The Swiss military system is the model defensive organization for a democratic people. It is as characteristic of democratic institutions as the Prussian military system was characteristic of autocratic institutions. The Swiss system is based on the idea of defense by an organized citizen army, officered in the main by selected citizen officers. The Prussian system was based on the idea of defense by an expansible standing army officered in the main by a separate professional class. It follows, therefore, that the leaders of the Swiss system are primarily interested in conserving established peace, while the leaders of the Prussian system were primarily interested in promoting victorious war. The people of the United States should frankly study the Swiss system with the view of adapting it to American conditions. Such an adaptation of the Swiss system would be almost identical with the defense system originally proposed by Washington.

Proposals to adapt the Swiss system are generally misunderstood because it is assumed that as universal military training and service are necessary in Switzerland, universal military training and service are essential features of the Swiss military system. This is an error. Whether *universal* training and service are necessary is purely a question of relative population. Switzerland with a population of less than 4,000,000 must be able to mobilize 300,000 effective citizen soldiers in

three or four days. To accomplish this, *all* of her able-bodied men must be trained and ready *all the time.*

On the other hand, the defense of the continental United States will be assured if we can mobilize 500,000 effective citizen soldiers from a population of 110,000,000. The Swiss must have a trained soldier in every thirteen persons while we need a trained citizen soldier in every 220 persons. The Swiss ratio can be satisfied only by *universal* training and service. The American ratio can be satisfied by *voluntary* training and service. If one young American in every seventeen will voluntarily take the training that every young Swiss *must* take, we can establish an American adaptation of the Swiss Citizen Army. With such a citizen army as the foundation of our national defense, we will be impregnable against invasion and will be in the "respectably defensive posture" which Washington considered an integral part of our political system. The military organization essential to this posture of defense will be thoroughly consistent with democratic institutions and will in no sense be provocative of war.

12. *Details of an American Adaptation of the Swiss System.*—

(*a*) The defense of the continental United States should be recognized as primarily resting upon the National Guard and the Organized Reserves which are recognized by existing law as the citizen components of the Army of the United States.

(*b*) We now have many more veterans of the World War than are needed to fill the Army of the United

States to full strength if a military emergency should occur in the next few years. In order to perpetuate this advantage, a voluntary training system should be established with the object of training younger men gradually to replace the existing reservoir of trained veterans. This training system should rest upon standards and specifications similar to those that the Swiss have developed after more than a century of practical experience.

(*c*) All young Americans who voluntarily undergo the training which all young Swiss *must* undergo, should receive a *National Defense Badge* or other official token as a public recognition of their voluntary contribution to the national defense. This will co-ordinate and standardize the activities of many public and private agencies now engaged in manhood training. It will give a definite goal and objective and a national recognition to thousands of young men and boys who are now undergoing training upon their own initiative.

(*d*) Promotion in the National Guard and the Organized Reserves should depend upon specific courses of training and practical tests of efficiency such as have been worked out in Switzerland. Subject to such training and such tests, any American citizen soldier should be regarded as eligible to promotion without arbitrary limit as to grade.

(*e*) The Citizen Army being recognized as the foundation of the national defense, regular army organizations should be maintained only for the performance of functions which obviously cannot be performed by organizations of the Citizen Army. The following regular organizations are of this character:

i. The garrisons of outlying strategic positions such as Oahu and the Panama Canal Zone. The troops required in these positions upon the outbreak of war must be effectively installed there in time of peace, and must therefore be regulars.

ii. Such expeditionary forces as may be required in the United States to meet sudden minor military emergencies at home or abroad. For this purpose, no more than three infantry divisions are required. The maintenance of a greater number of regular divisions even in a skeletonized form should be discontinued as an unnecessary expense and as inconsistent with the general plan of defense by the people themselves. We do not need nine regular divisions as an expeditionary force and if we frankly propose to rely upon the citizen army for defense, we do not need them as the basis of our war expansion. To maintain such a regular establishment even in skeletonized form not only greatly increases the cost of government but distracts us from the true solution of our national defense problem.

iii. Such special training organizations as may be required to instruct the young men who volunteer for military training and for the development of the National Guard and Organized Reserves. Valuable practical information as to the number of regular officers and men required for training purposes, their organization and mode of employment, can be obtained by a

study of the Swiss system where the whole problem has been in actual solution for more than a century. Economy of personnel as well as the efficiency of the citizen army, demands that the training of the citizen army recruits should be conducted in the main by older citizen soldiers who are thus demonstrating their capacity for leadership and promotion. This, as in Switzerland, should be under the supervision of especially qualified or professional officers and non-commissioned officers. But as Switzerland has no standing army at all, her experience demonstrates that regular troops, as such, are neither necessary nor desirable as a means of training citizen soldiers.

iv. Such special staff and administrative organizations as may be required for the peace-time maintenance and development of the Army of the United States as a whole.

(*f*) In developing the Army of the United States as a whole, the following principles should govern:

i. No professional officer or soldier should be maintained for the performance of a duty which can safely be left to an available citizen officer or soldier, adequately trained for the performance of that duty.

ii. No given organization should be maintained in the Regular Army if a similar organization can be mobilized effectively and in time from the National Guard or the Organized Reserves. No given organization should be maintained in either the Regular Army or the National Guard

if a similar organization can be mobilized effectively and in time from the Organized Reserves.

The two principles stated above should be recognized as the foundation of a scientific military budget. Their consistent application must necessarily assure adequate defense at minimum cost.

All of the above military reforms can be accomplished by order of the President of the United States, under the discretionary powers specifically conferred upon him by the National Defense Act. The only legislative action required will be in the appropriation bills. It is probable that the reduction of the mobile regular army within the United States to the dimensions of an appropriate expeditionary force and the frank and final abandonment of the nine-division scheme now maintained in an ineffective skeletonized form will release enough money to finance the national training system and the proper defense of the Panama Canal Zone and Oahu without increasing the total military budget. The military personnel so released from ineffective skeletonized units should be employed in raising the overseas garrisons to effective strength, in manning the special units required for the national training service, and in raising the units retained in the expeditionary force to effective strength. If the total authorized strength at any particular time is not sufficient to meet all of these three requirements, the order of priority should be: *first,* the overseas garrisons and especially the garrisons of Panama and Oahu; *second,* the national training service; *third,* the expeditionary force. The residue available for the expeditionary force, after meeting the first two requirements, should be

formed into no more military units than can be given effective strength. A military unit is at effective strength only when it is capable of immediate effective employment in the field without further expansion. A regular force of two divisions, each substantially at war strength, would be more economical and more effective, either for expeditionary purposes or as a training model for the citizen army, than a force of the same total strength formed into three or more skeleton divisions.

13. *The Philippines.*—The Panama Canal Zone and Oahu should be incontestably held by appropriate regular garrisons. They are essential to the defense of the United States. An Army and Navy based upon America and sufficiently strong to assure the defense of the Philippines would be a provocative armament and would put us in more than a "respectably defensive posture." The defense of the Philippines must ultimately rest with the Philippine people. While we are preparing them for ultimate independence we should prepare them for ultimate self-defense. The gradual development of a Philippine adaptation of the Swiss system would be the most effective means of accomplishing both objects. *Pari passu* with the development of such a system, the cost of our regular Philippine garrison could be reduced. The adoption of this policy will require co-ordinated legislation by Congress and the Philippine Legislature.

14. *Naval Policy.*—With an adequate and properly organized citizen army, the United States can be defended from invasion even though we have no fleet. *This Citizen Army should therefore be regarded as the true*

first line of national defense, and should be so developed. A navy large enough to assure our defense from invasion would not only distract us from the true solution of our national-defense problem but would be provocative of naval competition and therefore of war. With the Citizen Army recognized as the basis of our continental defense, the Navy should be regarded as its seagoing auxiliary charged with the defense of our commerce and our overseas communications. Our Navy should form a part of our "respectably defensive posture" and should not be translated into a gesture of offense. The Washington agreements of 1922 have solved this problem for the time being by placing a definite limit upon our fleet development. If we retain our "respectably defensive posture" and continue the policy of international understanding initiated in the Washington Conference, future conferences will provide for still further reductions of armaments of all types on land and sea.

15. *The Air Service.*—The national defense requires a progressive development of our military air forces until such time as air establishments also are regulated by international agreement. We will further this end by developing our air resources, not by neglecting them. But the military air service should rest primarily upon commercial aviation and not upon professional military personnel in the Regular Army and Navy. We should develop air transportation as a part of our commercial development and as speedily as possible. With a great commercial air service once established, we will easily develop the bulk of our military air forces in the Organized Reserves. A properly trained commercial aviator

is ninety per cent ready for service in the national defense. Every dollar wisely invested in stimulating commercial aviation will be more effective for national defense than ten dollars invested in strictly military aviation.

16. *China and the Far East.*—The menace of the Far Eastern situation arises from the fact that China is a "non-self-defensible" political unit. Such "non-self-defensible" units are political *low areas.* They invite destructive competition and war. If China were self-defensible there would be no open-door problem, because she would then regulate her own doors of commerce, as all other self-defensible nations do. The problem of peace in the Far East is simply the problem of aiding China to become a self-governing, self-defensible, modern nation. An international program of constructive joint action to accomplish this object will further world peace in two ways: it will generate a true co-operative spirit among the nations and it will gradually remove the specific underlying cause of potential war in the Far East. The Western Powers should join with Japan in the prosecution of this great constructive work.

XI

BUREAU OF CONCILIATION

IN THE DEPARTMENT OF STATE AND OTHER PROPOSALS

BY DAVID STARR JORDAN

David Starr Jordan, naturalist, educator, and author, was formerly president and chancellor and is now chancellor emeritus of Leland Stanford University. He was an Associate of the Smithsonian Institution and advisor to the United States Fish Commission for many years. He was for two years International Commissioner of Fisheries, United States and Canada. He has been connected with a number of movements in the interest of world peace: he was chief director of the World Peace Foundation for several years; president of the World Peace Congress in 1915; vice-president of the American Peace Society. He is also a former president of the American Association for the Advancement of Science and of the National Education Association. He has written, in addition to numerous scientific works, many papers on education, international relations, war and peace. These include: "The Fate of Iciodorum," "The Stability of Truth," "War's Aftermath," "War and Waste," "The Innumerable Company," "War and the Breed," "Democracy and World Relations," etc., etc.

XI

BUREAU OF CONCILIATION IN THE DEPARTMENT OF STATE—AND OTHER PROPOSALS

A

I. *Assistant Secretary of State for Conciliation.*

The restoration, in our State Department, of the office of Assistant Secretary of Peace as it existed and functioned through the year 1909 (at the outset of the administration of President Taft, and under the direction of Dr. James Brown Scott) is proposed as one leading method in international conciliation. The incumbent of this post should be aided and supported by an official Commission or Bureau of Conciliation corresponding in a fashion to the General Staff of the Army, or the parallel General Board of the Navy.

For beyond all question the chief interest in every civilized nation is to maintain peace. Nevertheless, the United States has made no special provision of service or money looking toward this end. On the other hand, it supports two separate administrative departments in their original purpose avowedly for national defense in case of war, and together absorbing half the national revenue. In the words of Viscount Grey of Falloden, "we have machinery for a quick war but none for a quick

peace." Were international relations properly organized, the possibility of foreign war would be negligible.

As far as possible, it should be the special duty of this proposed Assistant Secretary and his staff:

(1) to remove causes of international friction, real or apparent, proceeding wholly or partly within the United States;

(2) to insure friendly relations with other nations;

(3) to initiate co-operation with them in removing standing incentives to war, to be discussed under another heading;

(4) to keep in touch with peace societies and associations for conciliation at home and abroad; and

(5) to aid in the cultivation, in the schools and churches, with, so far as possible, the co-operation of the Bureau of Education, of an international mind, which, without abatement of national patriotism, would operate toward altruistic ends, enabling our youth to recognize and comprehend the points of view of other peoples in the present and in the past. By this means an intelligent patriotism would gradually replace the blind feeling expressed in the phrase: "Our country right or wrong." It is a primal duty of good citizens to help their country find the right and practise it.

Highly desirable, also, would be the establishment of similar agencies, if and wherever possible, in the Foreign Offices of other governments.

II. *Education for Peace.*

In the long run our most effective final appeal must be to the training of the children along lines adverse to war. If we cannot educate for peace it is hardly worth

while to educate at all. This was a conclusion of the Pan-Pacific Conference of Education at Honolulu in 1921, and, in substance, of the World Educational Conferences at San Francisco in 1915 and 1923. The ideas of most men and women are largely fixed in youth. In nearly all textbooks of history and in school readers, war has been glorified and its brave deeds set forth as the acme of heroism. The real progress of nations in science, art and intellectual development is scantily treated. Advances in conciliation, with its triumphs in sanitation, transportation, commerce and enlightenment, which gave a millennial aspect to the beginning of the twentieth century, are not dramatic. Even the Rush-Bagot Agreement to demobilize the Canadian boundary, the greatest diplomatic triumph of the last century, is scarcely brought to the attention of students in our schools.

A recent educational movement for peace in Japan serves to illustrate a direction in which efforts may be made. Textbooks used in the lower or Grammar schools throughout the nation have been revised by Madame Yukio Ozaki and Madame Hidé Inouyé, serving as a committee of the Women's Peace Society. From the histories, everything derogatory or unfriendly to other nations or boasting of the superiority of Japan has been eliminated. All references to military glory and all exaltation of deeds of blood are stricken out. In the reading books, descriptive of 400 heroes, only men and women who have accomplished constructive work are included. Military prowess is not extolled, though two or three outstanding "rebels" who lost their lives as "conscientious objectors" to the rule of the Shogun appear. Heroic figures from other lands are introduced,

among them Washington, for his persistent devotion to his people; Lincoln, for persistent work for freedom; Watt, Edison, Marconi, for persistence in helpful invention; Florence Nightingale for ministration to sufferers in war. As the schools of Japan are under direct supervision of the government, this new type of education was adopted at a single stroke, April 1, 1923. Such a change involves no falsification of history; it means merely a change of emphasis on realities. In the higher institutions, the student should, of course, receive every aid toward knowing the whole truth, whatever its apparent bearings.

In America, each state has been wisely left to frame its own school system, and the choice of textbooks rests with state or municipality. The end attained in Japan may be reached but slowly in America, and largely through the training of enlightened teachers. It is none the less vital, for ignorant or perverse education is the greatest of all the encouragements to war. The "outlawry of war" awaits a widespread insistence on it.

A current fallacy of upholders of war has been thus expressed: "War is ingrained in human nature, which does not change." Human nature indeed changes very slowly, but the *point of view* may change very suddenly. Popular education should prepare for just such a change. It is a historic fact that every great collective wrong has died in its moment of apparent triumph; when men came to see it nakedly for what it was, a great revulsion followed. Thus passed away cannibalism, human sacrifices, the Inquisition, witchcraft persecution, religious wars, slavery, absolutism. War, the most powerful and most ruinous of all these, must follow in its turn. Men

must behold it as the sum of all evil. When they do so, the world enemy will be doomed.

Peoples do not perversely fight one another; they struggle against the phantoms they have conjured up in ignorance. The final way out of war is through enlightened public opinion. Every means to this end will help, but no single act, judicial, legislative or administrative, will suffice if unsupported by the thought and feeling of the common man.

B

I. *Official International Conferences.*

The Washington Conference for the Limitation of Armaments furnishes an adequate precedent for similar conferences to be called by the President of the United States, and it also indicates a suitable method of procedure. Such gatherings may include many nations or few. They may treat of a single question or of several, all of them bearing on the abatement of international suspicion, fear and hate, which furnish a fertile soil for the growth of war.

Standing incentives to war are of many kinds, several directly removable by administrative action or by national legislation, others of a more complex character, resulting from adverse tradition or unfortunate education, and beyond reach of any direct effort on the part of the United States. Some of these matters may be enumerated as follows:

(*a*) *Armament.* To borrow a phrase of George Washington, "overgrown military establishments" are to be "regarded as a menace to liberty and especially to republican liberty."

Admitting (for the present discussion) the utility of a degree of military and naval defense, current expenditure the world over is beyond reason, and a most pressing need in international diplomacy is for its continuous reduction. The alternative to this policy is progressive bankruptcy. It seems proved by the experience of Europe that "national security" has never been acquired from armaments and never will be. The only policy leading to safety is one calculated to abate causes of friction, "a civil tongue in the Foreign Office" being more effective than battleships.

Reduction of armament to any large degree requires international action, and even then, as Andrew D. White has observed and as present experience is showing, large efforts may be put forth, by those financially interested, to render the agreement nugatory. Most "war scares" of the past have had this origin and purpose.

(*b*) *War Profits.* The immense profits made by armament builders in Germany, England, France, and America were among the incentives to the war of 1914. According to Mr. George H. Perris, one man in every six in England was, at that time, personally financially interested in war or war preparations,—this through stock investments and the like on the part of the wealthy, and through war-work and connection with army or navy on the part of others. A similar condition existed in Germany and France, and, to a degree, in America.

(*c*) *War Scares.* In 1913, the continent of Europe was aptly characterized as "the land of sleepless watchdogs." In every country, war scares were started and promoted for the sake of fostering or speeding up the process of military preparation. By this means the public opinion

of every country was deluded and perverted, and a condition produced which looked favorably on war. The statement that "war is inevitable; therefore the sooner it comes the better, to clear the air and brace up the nation," was current in nearly every nation of Europe, and with it the despairing question, "what else can we do?" In an international conference of leaders held unofficially in Paris in July, 1914, one chief consideration was described as an attempt to "save Europe from her patriotic press." For the inculcation of suspicion and fear has everywhere borne a gloss of patriotism. At the present time, several of our military authorities are unwittingly poisoning our foreign relations by discussions on the rostrum and in the press of "the enemy" and its purposes. Such a phrase should not be used in public by any official of the government.

(*d*) *Diplomatic Delinquencies.* The frequent evasions and discourtesies on the part of diplomatists tend to aggravate international differences, because the people at large attribute to uncivil letters an importance far beyond their due. "It always pays for a nation to be a gentleman."

(*e*) *Threats in Diplomacy.* It is said that the presence of a man-of-war gives "substance to diplomacy," especially in dealing with small or unarmed nations. Diplomacy has, in fact, been compared to the game of poker, the nature of which is "changed when the guns are laid away."

(*f*) *Dollar Diplomacy, and Spheres of Influence.* The exportation of capital to "backward countries" where rates of profit are very high but property is more or less insecure constitutes a growing feature of modern

finance. One of the greatest perils of the future seems to lie in the clash of rival exploiters, or, at times, in the uprising of "backward peoples" against them. This leads to demands from the corporations concerned for military support or for collection of bad debts. The United States has been already brought into difficult or doubtful relations of this kind, several of them apparently contrary to public morals. The outlook for the future gives promise of greater and more perilous entanglements. Such relations have formed the historical basis of some of the worst features of Imperialism. The ease with which large sums may be borrowed by reckless officials, collection to be assured by military pressure, is also a constant danger to the integrity of the debtor nation.

(*g*) *The Tyrannny of the Frontier, through Cut-Throat Tariffs.* The cut-throat tariff is a tax on commerce, intended not to produce revenue, or even to enhance prices of goods manufactured at home, which is the avowed purpose of the "protective" tariff. Its purpose is to work economic injury on neighboring peoples. By its agency the boundaries of states become not bridges, but chasms. Being in general use on the Continent—where the length of frontier lines has doubled since the Armistice—it is perhaps the most active of all present incentives to war. In a free-trade continent, disagreements could rarely rise to a dangerous pitch.

Count Sergius Witte once laid a map of the United States, with free trade across every interior frontier, alongside one of continental Europe, where every border becomes a perilous chasm. "How long would the pros-

perity of America last," he asked, "if every state line were fortified, and each beset by its own tariff?"

(*h*) *Education for War.* As already implied, that type of education in history which extols deeds of blood "as the chief source of national glory," is a breeder of antagonism toward other nations. Again, youths in most lands have been taught for generations to believe that wars are the chief reality in history, that "our country" has been mostly victorious and always in the right, that war is in itself heroic, invigorating—at the worst only the "growing pains of a progressive nation"—that victory is a noble aim, that its "fruits" are sources of national strength as well as of individual profit, that the welfare of other nations, alien or inferior, is opposed to our own, and that they are persistently, arrogantly, insidiously, or treacherously engaged in plotting against us.

II. *The Joint High Commission.*

The Joint High Commission is a practicable means of dispelling international misunderstandings and thereby of averting war. Such a body consists of members chosen from each nation concerned, to whom is intrusted the duty of investigation and adjustment of unsettled questions. By this device war has been many times prevented. It was used by Washington, Lincoln, and Cleveland to avert conflict with Great Britain, and by John Adams to ward off war with France. During the nineteenth century, 247 such commissions were in operation, the United States participating in 82 of them. Matters that seem to involve great complexity through the medium of diplomatic notes and the comments of a

venal or partisan press become readily clarified when honest men with authority meet face to face.

It is interesting to note that the Joint High Commission goes far back into history. Apparently the earliest on record appears in the Book of Joshua, Chapter XXII. Here is described the establishment, by a conference of leaders, of a joint Altar of Concord on the banks of the river Jordan, henceforth to serve as boundary between the lands of the Children of Israel and those of the tribes of Reuben, Gad, and Manasseh. That monument was the ancient prototype of "the Christ of the Andes," recently reared on the lofty boundary between Chile and Argentina as a symbol of enduring peace between the two republics.

III. *Mediation.*

The tender of good offices for purposes of mediation has been frequently made, and has at times been successful in turning aside wrath and averting war. It is a service peculiarly fitted to a great republic isolated from the historic entanglements of the continent of Europe, and yet on friendly relations with all peoples.

IV. *Arbitration.*

Arbitral treaties in the past have been of several different kinds. Those of occasional arbitration are framed to end an existing dispute. Agreements for permanent arbitration forestall possible future complication, not dealing, however, with matters relating to the constitution of the state, "questions of vital interest, independence, national honor, and those which concern the interests of third parties."

Thus far every arbitral decision has been accepted, and its requirements met, though one or two of them with some hesitation or delay. This seems to indicate the strength of world opinion in international affairs.

A Court of Arbitration may have a wider range in verdicts than a World Tribunal (later discussed). Its decisions may rest in large degree on equity, or on the process of "splitting the difference" between claims, at the time perhaps the best method of securing substantial justice.

In cases laid before an Arbitral Court or before the World Tribunal the testimony of witnesses in evidence should not be required, or allowed. All details as to fact should be agreed upon in advance or else ascertained through a preliminary Court of Inquiry by the parties concerned, leaving the question of judicial equity the sole one to be decided. If this arrangement is not provided, it will be necessary to grant to the Arbitral Court, or to a World Tribunal, the same right to summon and to cross-examine witnesses and to punish perjury as is now exercised by national courts.

V. *Code of International Law.*

The conduct of nations towards one another has nowhere advanced beyond the monarchial theory that the State, acknowledging no authority above itself, is superior therefore to all questions of right and duty, the monarch being at once the symbol of the State and the medium through which it acts. The original doctrine of absolutism, "the King can do no wrong," now painfully archaic, has given place to the equally dangerous axiom, "the State can do no wrong."

Monarchial rule was defined long ago by Francis Bacon as "the empire of man over man"; the democratic ideal as the "empire of man over nature." In the "empire of man over man" great historical organizations have been built up on the unstable basis of force, and each in its time has become disintegrated. The "empire of man over nature" leads to that system of co-operation from which spring science, personal initiative, and human enlightenment. The bonds of good-will, common interest, and intellectual cooperation alone give permanence to society.

The purpose of law within the state is, in general, the preservation and extension of such bonds by the conservation of freedom, order and justice as between man and man, and between state and individual. The preamble to the Constitution of the United States indicates this: "We, the people . . . . in order to . . . . establish justice, insure domestic tranquillity . . . . and secure the blessings of Liberty to ourselves and our posterity, etc."

To achieve like conditions among nations should be the purpose of international law, the basis of justice and right not being altered by the fact that the State is a half-artificial complex formed of many individuals.

What has been known as international law has three distinct phases: rules of convenience, "laws of war," and attempts to develop international morality. Only the last of these is real law, that is, based on inherent necessities—the primary rights of the individual man.

The great mass of statutes passed by a state or a municipality are rules of convenience, "by-laws," or methods of judicial procedure. Such adjustments may

be matters of agreement among nations, but they do not rise to the dignity of international law.

The so-called "laws of war" form no part of international law. In time of peace they are without meaning; in time of war they are consistently violated. At the best, they indicate a preference for one type of manslaughter over another, and serve to give sanction to special methods of robbery. As war is law's opposite, it is necessary that all pretense of legality should be withdrawn equally from all its manifestations.

To forestall actions evil in their inherent nature is therefore the province of international law. In civil life it is possible to abate or prevent crimes between individuals. The State, as an aggregation of individuals, should be maintained on the same moral grounds. It is a patent fact that nation after nation has been guilty of extending its jurisdiction by force of arms, at times in the interest of exploiting greed, more often through fear of the loss of power on the part of ruling classes—the effort to smother internal unrest in the excitement of war and conquest. "Men frantically mad have no conscience"; such madness is the essence of the war mind. Evils of this type increase in virulence as civilization advances.

No moral right can be established by war, nor can peace be enforced through power or terrorism. "One can do anything with bayonets," said Cavour, "except to sit on them." "Peace is the duration of law."

A crying world-need, therefore, is for the United States to move toward the establishment of a moral code among nations equivalent to that established in judicial relations among civilized peoples.

VI. *World Tribunal.*

The organization of the Permanent Court of Judicial Determination is a matter of highest importance as a means of insuring peace and as a natural ally or outcome of the codification of international law. Though initiated through the League of Nations, it has no vital or permanent relation to that body, and should receive in the future as in the past the warm support of the United States. To extend and perfect the Tribunal was apparently the original purpose of the Assistant Secretaryship of Peace of 1909, already mentioned.

Decisions of the World Tribunal should be rigidly based on recognized law, although, in some degree, it must create law through the precedents of its own decisions. There is apparently no valid reason for the exclusion of so-called "matters of national honor," or "of vital interest" from the jurisdiction of this court, but it would seem that the time is not yet ripe for trying to make its jurisdiction compulsory. I do not believe that any force of arms should lie behind its decisions. Its appeal should be like that of Grotius, "to the great court that sits in silence, the heart and conscience of universal humanity."

C

I. *Covenant of Peoples*

A covenant of peoples—or "league of nations"—for peace, tolerance, and mutual aid, is an ideal to be attained as speedily as possible. Apparently the present League, to be of much actual service, must cut loose

from the Treaty of Versailles, a document which may be described as ten per cent. iniquitous and twenty per cent. unworkable. [It must also be separate from the other treaties (St. Germain, Neuilly, Le Trianon, Sèvres) in none of which, fortunately, had the United States any part.] To be practically just and useful, it should include Germany and Mexico, as well as all other recognized nations having a *de facto* government.

Mandated regions should have the benefit of the Open Door, or absolute freedom of trade, and not be held as districts for national exploitation.

Furthermore, to be acceptable to the people of the United States, the League must be an organization really devoted to peace, not an arrangement for perpetuating warfare under another form. In my judgment it ought to be an expression of world opinion, without means or intention to punish any nation, however refractory, either by force of arms or by boycott. It will ultimately acquire a backing of popular confidence through just dealing, no matter how small the scale on which it begins its work. Like other institutions of helpfulness, it will tend to build up a loyalty of its own. But it must not undertake to attain results by military compulsion or terrorism. The "teeth" some would insist on giving to its decisions would become "dragon's teeth," likely to develop into the historic curse of Europe, "the Balance of Power." Compulsion in any form is not the road toward conciliation. A "League to Enforce Peace" is a contradiction; true peace, I insist, was never yet "enforced" in international affairs.

As to economic pressure in the form of the "boycott"

or "non-intercourse" as a means of punishment, I cannot regard it as likely to be effective or successful. In brief, it is not possible "to indict a whole people," nor to ascertain—speedily and with exactness—either fact or motive in any particular case. No national administration is ever morally prepared to cast the first stone; any penalty whatever falls on the innocent and often as heavily on the accusing nation as on the other. It is difficult to conceive of any international punishment or "sanction" which may not prove as evil or as disastrous as the offense itself. In addition, a boycott would greatly increase the (artificial) crime of smuggling, giving smugglers the status of "conscientious objectors"; few traders, moreover, would be ready to condemn their own nation or to consider an "isolation-edict" directed against it as wise or just. Such procedure would never be applied against a great nation, and the small ones would in the future, as now, mostly let their grievances go by default. There is, in fact, as was shown in 1914, no way of compelling a state of equal standing to present itself "before an Areopagus."

Even an association of great nations may be powerless before the obstinacy of a small one. In 1912, when the combined navies of the "Concert of Powers" "demonstrated" off the litle seaport village of Antivari to bring Montenegro to terms, King Nicola, perched on the crags above, simply snapped his fingers at them. Finally, therefore, they went their way, with the sole result, according to the Tzar of Bulgaria, of showing "as Powers their lack of Power," *"comme Puissances leur Impuissance."*

To recapitulate, briefly—in the judgment of the

writer, the present League of Nations needs certain modifications or amendments to make it acceptable to the United States or serviceable in a high degree to the cause of world peace:

1. It should be clearly dissociated from the Treaty of Versailles and from all responsibility for its "sanctions" or the execution of any part of its details.

2. It should be open to Germany and all other nations having a recognized *de facto* government.

3. It should insist that the mandate system adhere to its avowed purpose, the control of backward nationalities in their own best interest, not act as a cloak for exploitation or spoliation. To each such nationality should be left the "Open Door," that is, equal commerce with all nations, preferably through absolute free trade.

4. No part of its function should consist of chastisement by force of arms or by economic pressure of nations regarded as guilty of the crime of beginning war.

The League as now constituted has world values chiefly in its Assembly at Geneva. This body has shown itself useful in the adjustment of numerous minor problems, some of them of more real importance than those which attract general attention. It is especially serviceable as an opportunity for free discussion of world interests, thereby promoting education in internationalism. Current opinion in America deprecates it for two incongruous reasons, its relation to the Treaty of Versailles, and political personal antagonism to its author. On the one hand, also, it is condemned as impotent, afraid to touch any serious problem; on the other, it is denounced as too powerful, a sort of super-government, destined to override all nationality.

In my judgment it is safer for it to be weak, heading the class of voluntary combinations for international welfare, such as the Inter-parliamentary Union, the Postal Union, the Telegraph Union, and associations for world sanitation. These, added to a multitude of other international societies, helped to ameliorate conditions of life in the years before 1914, matters of vastly greater human value than anything to be attained by diplomacy or militarism. To stress the value of such organizations should be an aim of general education. All similar voluntary and patriotic effort implies a relaxation of the demands of absolute sovereignty on the part of nations or their rulers. It points to a loose form of federation adequate to abate conflict and rivalry, to mellow insistent nationalism, and sooner or later to outlaw war itself.

By all available means World Courts, Leagues of Peace, World Conferences, Inter-parliamentary Leagues, International Conciliation and Joint High Commissions should be encouraged. The more we talk things over the better, even if some are half-hearted and some dishonest. The postponement of an alleged grievance is the next thing to relieving it.

XII

COOPERATION THROUGH EXISTING MACHINERY OF THE LEAGUE OF NATIONS

BY MANLEY O. HUDSON

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XII

COOPERATION THROUGH EXISTING MACHINERY OF THE LEAGUE OF NATIONS

I. NATURE OF THE PROBLEM OF PEACE

1. *Peace as a Way of Life.* The peace of the world must be achieved and preserved as a *method* of handling international affairs. It does not denote a static world society. It does not mean that differences between nations shall cease to exist. Because difficulties will arise, it is necessary to have methods of dealing with them which will avoid the waste of war. It is not a matter of finding solutions for specific difficulties, existing now or in the future. While one difficulty is being solved, a new one is always arising to demand solution. Peace is a process rather than a condition. The future cannot be fore-ordained by devising absolute water-tight guarantees that men will never fight. But agencies can be established and a process can be inaugurated which will increase the aversion to violence, and which will make it more probable that as faith in their efficacy grows, rational means of seeking solutions will be tried first.

2. *An International Legal Order.* The task of preserving the peace is a task of reducing friction between peoples, eliminating waste in their contacts, and extending human enjoyment of the earth's resources. Such an international legal order must have two objectives:

a. The regular and efficient consideration of the world's common affairs before disputes arise; and

b. The peaceful settlement of disputes when they do become acute.

II. NEED OF PERMANENT ORGANIZATION

3. *Cooperation Involves Conference.* The diplomatic system of international intercourse is no longer adequate. As communication has improved, diplomacy has grown more restricted. The conference method of handling general international affairs is now recognized as a necessary supplement to the regular work of diplomatic representatives.* It has become clear that the best results can be obtained only by bringing together the various people charged with handling a situation so that each may understand the others' needs and limitations.

4. *Organization for Continuous Conference.* The spasmodic character of international conferences assembled to deal with specific questions has greatly limited their usefulness. In the first place, difficulty is frequently experienced in assembling a conference. The failure in 1914 all but wrecked civilization.† Even when this difficulty is overcome, time is consumed in the process—the Second Hague Conference, initiated by President Roosevelt in October, 1904, did not assemble until

*The frequency of conferences in recent years is indicated by the lists in 1 American Journal of International Law, p. 808, and in the League of Nations Handbook of International Organizations (1923). The administrations of President Roosevelt were particularly fruitful of international conferences.

†In an address at Central Hall, Westminster, on January 21, 1922, Mr. Lloyd George, then Prime Minister of Great Britain, declared: "If there had been a conference in 1914 in July, there would have been no catastrophe in August."

June, 1907. Moreover, such conferences cannot be counted upon in advance, so that foreign offices cannot shape their policies with reference to them. When assembled, the conferees frequently encounter difficulties, such as those of language, without the best available facilities for meeting them.* Without interim machinery to carry on the work begun, results are often disappointing.† Continuity seems essential if the conference method of conducting international affairs is to be effective; and such continuity involves permanent organization.

5. *Public International Unions.* As a means of assuring continuity, numerous international unions have been organized during the last half century. In all of these, provision is made for successive conferences and for interim administration.

6. *The Pan-American Conferences.* The five Conferences of American states since 1889 have been more distinctly political. A sixth conference is now planned to meet at Havana within five years. It is under the authority of these conferences that the Pan-American Union is maintained in Washington, with a Governing Body to direct its work.

7. *The Hague Peace Conferences.* The conferences at The Hague in 1899 and 1907 demonstrated the need for continuity. The second Conference provided for a third, but it was never held. The first Conference set

*The American delegation to the Second Hague Peace Conference, 1907, reported: "Experience has shown that much time is lost not only in organizing a conference, but in preparing and presenting the conference projects." Foreign Relations, 1907, p. 1180. The American delegation to the Santiago Conference of 1923 reported to the same effect.

†Only three of the treaties of the Washington Conference on Limitation of Armament have come into force.

up a panel known as the Permanent Court of Arbitration, an Administrative Council, and a permanent Bureau. But the second Conference sought in vain to add a Prize Court and a Court of Arbitral Justice.

8. *Organization During the War.* The experience of the Allied and Associated Powers in the conduct of the War proved the value of permanent organization. After much wasteful independent action, the Supreme War Council was established late in 1917, and throughout 1918 a number of permanent international bodies functioned under its authority.

9. *Structure of Machinery Required.* The experience of the last half century, both in the field of the Pan-American Conferences and the Hague Peace Conferences, and in the less distinctly political field of such organizations as the Universal Postal Union and the Institute of Agriculture, has indicated that the machinery required for handling international affairs by the continuous conference method must include:

a. Facilities for the assembling of periodical conferences;

b. Facilities for the assembling of a smaller body meeting more promptly and deliberating more freely; and

c. A permanent working staff.

III. AMERICA'S ATTITUDE TOWARD INTERNATIONAL ORGANIZATION

10. *Participation in the Past.* For several decades the United States has played such an active rôle in organ-

izing and maintaining permanent international agencies that participation may be said to have become a part of traditional American policy.

a. The United States has participated in various international unions throughout their history.

b. Secretary Blaine took the initiative in organizing the Conferences of American States, all of which have been supported by the American Government.

c. President McKinley, President Roosevelt, President Taft and President Wilson gave generous support to the Hague Peace Conferences, and led the efforts to make them permanent.

i. Secretary Hay instructed the American delegation to the Conference of 1899 "to concentrate the attention of the world upon a definite plan for the promotion of international justice."

ii. Secretary Root instructed the American delegation to the Conference of 1907 to urge "the holding of further conferences within fixed periods, and arranging the machinery by which such conferences may be called."

iii. The American delegation to the Conference of 1907 reported that it had endeavored "to have the Hague Conference a permanent institution, which meets at certain regular periods, automatic if possible, and beyond the control of any one power."

iv. Secretary Knox made repeated efforts to have the proposed Prize Court and the Court of Arbitral Justice organized.

v. President Taft appointed a committee to prepare for the work of a third Conference.

vi. Secretary Bryan endeavored to have a defi-

nite date set for a third Conference, and before the War proposed that it be held in 1916.

d. During the World War, the American people were committed to permanent international organization, both by President Wilson's statement of war aims and independently.*

e. In 1920, the platforms of both major political parties favored international association.

11. *General Terms of American Participation.* By the reservations of the United States to some of the Hague Conventions, to the General Act of the Algeciras Conference, and to the treaties of the Washington Conference on Limitation of Armaments; by the history of various attempts to conclude arbitration treaties; and by the discussion in 1919-1920 with reference to the League of Nations, the general terms of American participation in international organization have been made clear. There must be:

a. No super-state.

b. No interference with the American constitutional system of government.

c. No obligation to use military or economic force apart from free determination by Congress.

d. No limitation of the Monroe Doctrine.

*Various state legislatures resolved in favor of "the entrance of the United States into a League of Nations to safeguard the peace." For example, Massachusetts, February 11, 1918; Mississippi, February 4, 1918; New York, April 12, 1918; Rhode Island, March 21, 1918. On March 19, 1920, a large majority of the members of the United States Senate favored entering the League of Nations on some terms.

IV. COURSES TO BE CONSIDERED FOR THE FUTURE

12. *Three Possibilities Under Discussion.* American cooperation in the future must be considered in connection with the current discussion of three possibilities:

a. Revival of the Hague Peace Conferences.

b. Formation of a new association of nations.

c. Cooperation with the League of Nations.

13. *Revival of the Hague Peace Conferences.* This would have the advantage of furnishing a settled procedure, as well as a tradition wholly unassociated with the World War and the peace treaties. The twenty-six Powers represented in 1899 and the forty-four Powers represented in 1907 included some Powers not now Members of the League of Nations, which might be drawn into cooperation in this way. But the scope of these Conferences was very limited. They failed to deal with the more vexing problems which produced the War, and popular prejudice against them exists because they were so largely preoccupied with the laws of war. In the light of subsequent events, and in view of the Powers' failure to assemble a third Conference in 1914, it would be very difficult to arouse interest in reviving these Conferences. The movement for a third Conference has been abandoned in most countries of the world. In some of the countries which compose the League of Nations, it might now meet active opposition. This course therefore seems impracticable.

14. *Formation of a New Association.* The experience gained both before and since the War might be capitalized by forming a new association of nations. Such an

association would probably follow very closely the lines of past efforts. But even if American support were fairly unanimous for a new plan of organization, it would probably prove difficult to get other states to adopt it. No immediate and overwhelming necessity for agreement now exists. Only a terrific war had produced such necessity when the League of Nations was established in 1919. Moreover, many countries might find it difficult to take part in a new association which involved either the abandonment or the duplication of the existing League of Nations. This course also seems impracticable, therefore.

15. *Cooperation With the League of Nations.* The League of Nations has the advantage of being a going and growing organization, which has functioned with considerable success since January 10, 1920. Its fifty-four members include:

a. All the Asiatic states, except Afghanistan and Turkey;

b. All the self-governing states in Africa;

c. All the states in North and South America, except the Dominican Republic, Ecuador, Mexico and the United States;

d. All the important states in Europe, except Germany and Russia.

In four sessions the Assembly has proved a useful forum for the discussion of world problems, and has been instrumental in setting up the Permanent Court of International Justice. In twenty-seven sessions the Council has dealt constructively with various international problems, and has mediated in several serious disputes. The permanent Secretariat supplies a trained personnel

which has already acquired traditions of an international civil service. Numerous special and technical bodies exist to deal in a continuous way with various phases of the world's life. Traditions and practices have become established, which give to the existing machinery a momentum and a power to enlist wide support. In a brief four years, the League has earned its salt.

16. *The League a Necessary Foundation.* If the United States is to cooperate with other nations to preserve the peace, if the conference method of cooperation is to be followed, and if machinery for continuous conference is to be maintained, some way must be devised for building on the foundation of the existing League of Nations.

V. PRACTICABILITY OF THE LEAGUE

17. *The American Controversy of* 1919-1920. It would be desirable to find a method of cooperation which would escape past controversy. But the results of the American contest of 1919-1920 were never definite, and certain changes have now occurred which seem to make possible a new judgment.

a. The separate peace with Germany, Austria and Hungary makes it unnecessary to consider further the ratification of the Treaty of Versailles or the other treaties of peace.

b. The question is no longer entangled with the domestic and personal issues of 1920.

c. The four years' record of the League's activities may now serve as a basis for the judgment which for-

merly depended on conjectures as to what might happen under the Covenant.*

18. *Execution of the Treaty of Versailles.* The machinery of the League does not exist for the purpose of executing the peace treaties and has not in fact been used for that purpose. The Covenant of the League forms a part of the peace treaties, but is distinct and separable. Cooperation through the League would involve no responsibility for executing the treaties of peace, nor would it render the position of the United States less favorable with respect to possible changes in the Versailles settlement.

19. *Disadvantages of the Covenant.* Any written instrument establishing a plan for cooperation would have certain disadvantages. Yet some statement seems necessary. However willing people in other countries may be to consider only likely and practicable interpretations, American constitutions have accustomed Americans to attempting to foresee all possible interpretations. From this point of view, the Covenant of the League is not happily drawn in places. While it offers a satisfactory skeleton of organization, it imposes certain obligations which some people deem inconsistent with American requirements (ante, par. 11) and precedents. But this need not preclude cooperation, for such obligations may easily be avoided.

20. *Obligations of the Covenant.* The principal obligations of League membership are:

*Although the Senate reservations of November, 1919, and March, 1920, would have excluded the traffic in women and children and the opium traffic from consideration by any agency of the League, the United States has recently been cooperating with the League of Nations in handling both of these problems.

a. Continuous conference. For such an obligation there are many American precedents; particularly the Washington Treaty on Insular Possessions in the Pacific of December 13, 1921.

b. Arbitration before going to war. For this there are numerous precedents, particularly the twenty-one treaties for advancement of peace negotiated in 1914-1915.

c. Respecting and preserving territorial integrity of other members against external aggression. American precedent for this is lacking, the guarantee of Panama's independence in 1903 being a special case.

d. Economic boycott. Precedents for Article 16 are lacking.

e. Registration of treaties. Treaties of the United States are now published when ratified.

f. General obligations of Article 23. These are to be performed "subject to and in accordance with . . . international conventions," as to which each Member has complete freedom.

g. International Labor Organization. This leaves each Member free to accept or reject any draft convention or recommendation of the International Labor Conference.

VI. METHODS OF COOPERATING THROUGH THE LEAGUE

21. *Present Cooperation Inadequate.* The United States is now co-operating in a limited way* in certain

*The United States has participated in the Conferences on the Standardization of Sera and Serological Tests (1921, 1922), the Suppression of Obscene Publications (1923), and Customs Formalities (1923); and in the work of the Health Committee,

humanitarian activities of the League of Nations. These activities in themselves present no reason for limiting American representatives to "unofficial and consultative" participation. But even with this formula discarded, such activities do not hold the key to the peace of the world. Effective cooperation to preserve the peace must go further.

22. *The International Court Not Enough.* Participation in maintaining the Permanent Court of International Justice as proposed by President Harding on February 24, 1923, is essential. But the juridical questions with which this Court is equipped to deal do not cover the gamut of international disputes. Additional machinery is needed for conciliation, and for constructive effort to handle situations before disputes arise.

23. *Two Methods of Association With the League.* The United States may become associated with other nations in using established agencies for cooperation, in either of two ways:

a. Without League membership and without the Covenant obligations; or

b. With League membership and some modifications of the Covenant obligations.

24. *Association Without League Membership.* A declaration can be made that the United States will support proper efforts to preserve the peace through the use of League machinery, will collaborate in League activities directed to constructive ends, and will pay a fair share of the expenses of maintaining the League as

the Advisory Committee on Anthrax, the Advisory Committee on Opium and Other Dangerous Drugs, and the Advisory Committee on Traffic in Women and Children.

determined and appropriated from time to time by Congress. Such a declaration could be authorized by a joint resolution of Congress, passed by majority vote of the two Houses and approved by the President. The resolution would expressly exclude the assumption of any Covenant obligations, and would confine all American action to constitutional channels. But it would enable the cooperation through the League already begun to be put upon a more satisfactory basis, it would enlarge the rôle of the United States in current international life, and it would enhearten other peoples in their efforts to preserve the peace. The United States could then cooperate more freely in conferences such as the Opium Conferences to be held in 1924 and in the work of various advisory commissions, and it might also accept limited representation in the Council and Assembly.

25. *Association With League Membership.* The alternative would be for the President to ask the advice and consent of the Senate (by two-thirds vote) to adhere to the Covenant formally, on conditions which would satisfy American opinion. Such a conditional adhesion would have to be acquiesced in by other Powers, but would not necessitate independent affirmative action by them. It would enable the United States to collaborate in the current work of the League in a more regular and more efficient manner than would be possible without membership. It would add prestige to the agencies of the League, and would lend the full influence of the United States to the encouragement of international cooperation to preserve the peace. Whenever a majority of the two Houses of Congress would favor association without membership, it seems probable that two-thirds

of the Senate would be able to agree on the association involved in such conditional membership.

26. *Conditions of Association With Membership.* For cooperation to be undertaken with League membership, conditions and understandings in the sense of the following would seem necessary:

a. Treaty of Versailles. That the United States assumes no obligation under any part of the Treaty of Versailles (or other treaty of peace) except those parts setting forth the Covenant of the League of Nations and the charter of the International Labor Organization.

b. Constitutional limitations. That all action by the United States as a Member of the League shall be subject to the limitations established by the Constitution with reference to the federal system of government and with reference to the exercise of the power to make treaties, the power to declare war, the power to make appropriations, and the power to appoint diplomatic representatives.

c. Articles 10 and 16. That the United States assumes no obligation to participate in any war, or to take any action to preserve as against external aggression the territorial integrity or political independence of any Member of the League under Article 10, or to adopt any economic measures of a coercive nature under Article 16, except as the Congress of the United States may decide upon at the time.

d. Domestic matters. That the United States shall remain free to determine for itself what are the matters which by international law are solely within the domestic jurisdiction of the United States, and therefore outside

the competence of the Council or Assembly under Articles 11-15.

e. Monroe Doctrine. That membership in the League shall involve no limitation on the power of the United States to pursue the policy known as the Monroe Doctrine, as it may be defined by the United States.

f. Equality of voting. That in any dispute before the Council or Assembly, to which the United States is a party, and to which there is another party associated with a Member of the League as dominion, colony, or member of the same federation or commonwealth, such Member of the League shall also be deemed a party to the dispute for the purpose of applying Article 15.

g. Withdrawal. That the United States may at any time withdraw from membership on its own determination that its obligations have been fulfilled.

27. *Satisfaction of American Opinion.* Association with or without membership would substantially meet the chief difficulties developed during the discussion of 1919-1920. If adopted independently of a struggle between political parties or personal factions, association with the League by either method would enable the United States to pursue its traditional attitude toward international cooperation, consistently with American requirements. The second alternative would enable the United States to play the larger and more effective rôle and is therefore suggested as preferable.

VII. POLICIES TO BE PURSUED

28. *The League Not an End in Itself.* The League of Nations will serve only as machinery for cooperating

with other nations. Of itself, it will not insure peace. The results accomplished will depend upon the policies followed by the states cooperating.

29. *Reshaping the Covenant.* The conditions of American cooperation with membership would not need to be formulated as amendments. Other countries' unconditional acceptance of the Covenant would not be objectionable to the United States. With membership the United States should endeavor to have the ambiguities of the Covenant clarified; to this end, the amendments promulgated in 1921 should be carefully studied.*

30. *Universality of League Cooperation.* With or without conditional membership, the United States should seek to have all nations cooperate through the League machinery. The Dominican Republic, Ecuador, and Mexico might be influenced by the example of the United States. Turkey's cooperation should be welcomed.† The desirability of Russia's cooperation in the League should be a desideratum of American policy toward Russia.

31. *Germany and the League.* Germany is now cooperating through the League.‡ Her further cooperation should be encouraged and if she applies for membership, her application should be supported. So long as the reparations problem is acute, some governments may insist that Germany cannot "give effective guarantees of her intention to observe her international obligations." This makes it more important that the United States

*The proposed amendments to Articles 4, 6, 12, 13, 15 and 26 seem acceptable.

† On December 13, 1922, the Turkish representatives at Lausanne agreed that Turkey would apply for membership.

‡Germany is represented on the Governing Body of the International Labor Office, for example.

cooperate in effecting a settlement of the reparations problem which will make certain that Germany can perform her obligations. The machinery of the League might possibly prove useful in effecting such a settlement.

32. *Representation on Commissions.* The United States should accept representation, on equality with other Powers permanently represented on the Council, on the following commissions:

a. Economic and Financial Committee.

b. Advisory and Technical Committee for Communications and Transit.

c. Permanent Mandates Commission.*

d. Health Committee.

e. Advisory Committee on Traffic in Opium and Other Dangerous Drugs.

f. Advisory Committee on Traffic in Women and Children.

33. *Limitation of Armaments.* The United States should cooperate in the work of the Temporary Mixed Commission on Reduction of Armaments, and thus continue the work begun by the Washington Conference on Limitation of Armaments. In this connection, the following measures should be examined:

a. The proposed mutual-assistance treaty, making aggressive war a crime and providing for armament reduction.

b. Adoption of the principles of the Washington Naval Treaty by Powers not represented at the Washington Conference in 1922.

*The United States has recognized the mandate system by separate treaties with three Mandatory Powers.

c. General acceptance of the Washington Treaty on poison gas.

d. Limitation of air armaments.

e. Limitation of submarines.

f. A new treaty on the international traffic in arms.*

g. Publications of statistics concerning the size of military establishments.

VIII. DEVELOPMENT OF INTERNATIONAL LAW

34. *International Court.* With or without conditional membership in the League, the United States should adhere to the protocol of signature of the Permanent Court of International Justice. With membership, the four conditions proposed by Secretary Hughes on February 17, 1923 would become unnecessary. In one particular the United States might go beyond Mr. Hughes' proposals; it might follow Brazil's example in accepting for five years the compulsory jurisdiction described in Article 36 of the Court Statute, on condition that all Powers permanently represented on the Council of the League also accept it.

35. *Registration of Treaties.* The United States should scrupulously observe Article 18 of the Covenant. In order that the Treaty Series may be a complete compendium of post-war conventional law, all American treaties since 1918 should be registered with the Secretariat.†

*The Convention of St. Germain of September 10, 1919, has proved unacceptable.

†The five hundred treaties already registered include many American treaties, registered by the other states parties thereto.

36. *Codification of International Law.* Without attempting a wholesale codification of international law,† the United States should cooperate in drawing up special international conventions covering various phases of the nations' common life. Acceptance of the conventions already promulgated in connection with the work of the League should also be considered.‡

37. *International Labor Organization.* With or without conditional membership in the League, the United States should participate in the work of the International Labor Organization. Employers' delegates to the Labor Conference should be selected in consultation with the Chamber of Commerce of the United States; and workers' delegates, with the American Federation of Labor. Of the sixteen conventions already adopted by the Labor Conference, ratification of the four dealing with maritime matters should be considered.*

38. *Protection of Minorities.* The United States

†The history of the Hague Conferences, the London Naval Conference, the Pan-American Commission of Jurists, and the Committee of Jurists set up by the Washington Conference indicates the wisdom of more limited effort.

‡These include conventions on:
Aerial Navigation, October 13, 1919
Freedom of Transit, April 20, 1921
Freedom of Water-Ways, April 20, 1921
White Slave Traffic, September 30, 1921
Obscene Publications, September 12, 1923
Commercial Arbitration, September 24, 1923
Customs Formalities, November 1, 1923.

*These conventions establish:
Minimum age for admission of children to employment at sea, July 9, 1920.
Unemployment indemnity in case of loss of foundering of ship, July 9, 1920.
Minimum age for the admission of young persons to employment as trimmers and stokers, November 11, 1921.
Compulsory medical examination of children and young persons employed at sea, November 11, 1921.

should ratify the treaties for the protection of racial, religious and linguistic minorities in Poland, Czecho-Slovakia, the Serb-Croat-Slovene State and Roumania. These treaties represent an effort to obtain for minority peoples in the new European states, set up partly in consequence of the victory of American armies, the kind of protection vouchsafed to American citizens by the bill of rights contained in amendments to the American Constitution. The experience of the United States has shown the necessity of international protection for such peoples.* Many American citizens possess a common inheritance with them, and American support could be given to this new body of international law without embroiling the United States in the domestic affairs of Eastern European countries.

IX. INTERNAL AMERICAN POLICY

39. *Appointment of American Representatives.* The results of cooperation through the League of Nations will depend largely upon the personnel engaged. Not only should the United States send her best-equipped men to League conferences. She should also encourage other nations to do so. With fixed dates now set for meetings of the Council and Assembly, frequent attendance by the Secretary of State should be counted among the duties of his office. His substitute should be such a ranking official as the Under-Secretary of State, or a person specially associated with the Department of State for this purpose. If in practice the Minister at Berne

*Cf. Secretary Hay's protest of August 11, 1902. Foreign Relations, 1902, p. 42.

is frequently sent, the selection of a Minister to Switzerland should be made with this in view.

40. *League of Nations Bureau.* Effective cooperation may necessitate some reorganization at Washington. American representatives at League conferences should have the support of a carefully trained permanent staff. To this end a League of Nations Bureau should be organized in the Department of State, composed of experts in close touch with other departments in Washington and thoroughly abreast of developments in international life. Perhaps a part of this Bureau should be maintained in Switzerland in association with the Legation at Berne.

41. *Public Information.* Popular support will be essential to the effectiveness of any cooperation undertaken. The American Government should make every effort to inform the public about all activities undertaken through the League of Nations. All publications of the League, the Permanent Court of International Justice and the International Labor Office, should be made easily available in the United States, and some of them reproduced as government documents.

X. ROLE OF THE LEAGUE IN INTERNATIONAL LIFE

42. *No involvement in Europe.* Viewing the League as a machinery for conference, consultation and conciliation, cooperation on the terms suggested would mean no involvement in European affairs. The United States could not be drawn against its will into any action in Europe, and matters affecting Europe would be considered only to the extent that they present common

world problems. With conditional League membership the United States would be amply protected by the requirement of unanimity and the condition of withdrawal. Under no circumstances would it be obligated to use armed forces abroad.

43. *The Prospect of Peace.* Too much should not be expected of the cooperation suggested. For the League is no panacea. It is only a *method* of conducting world affairs. It merely furnishes machinery. Constant intelligence and conscious effort must determine how the machinery is to be used. When exigencies arise, agencies will be at hand for attempting to meet them. But their value and their success will largely depend on faith in their efficacy and on a will to peace.

XIII

AN EQUAL ASSOCIATION OF NATIONS

THE PLAN OF THE FRAMERS OF THE CONSTITUTION

BY J. WHITLA STINSON

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XIII

AN EQUAL ASSOCIATION OF NATIONS, THE PLAN OF THE FRAMERS OF THE CONSTITUTION

INTRODUCTION

"For equalities are so weighed that neither can make choice of either's moiety."

At a time when the economic, political, and juristic reconstruction of the world is being sought in the obligation of treaties, novel in principle, prejudicial to much that has characterized the old diplomacy and former understandings of international law, it is important to seek elucidation of those agreements between the Constitution of the United States and the law of nature and of nations, upon which is predicated the treaty-making power of the nation. Ascertained, these must point the way to enlarged world accord, afford new stability in treaty relations, and establish a reciprocal and concurrent justice between the United States and foreign treaty nations.

The wise men who framed the Constitution well knew the great future which waited upon their work. Their adherence to the principle of the perfect equality of nations, consistent always with the law of nature and of nations and responsive always to self-evident truths of the natural and inalienable rights of men and nations, foreshadowed an equal association of nations, wherein is no authority superior to the authority of any nation,

whose justice is by a law, fundamental, internal, and necessary in each.

This virtue, infused into the Constitution as its most obligatory content, enters in fullest latitude into the obligation of treaties of the United States. They presuppose a supreme, fundamental law, common to all nations, higher than the authority of peoples over Constitutions and of Constitutions over governments. The Constitution contemplated the existing systems of the law of nations and purposed, said Adams, "to establish justice over them all." (Jubilee of Constitution, April 30, 1839.)

To confirm the positive obligation and supreme legal sanction of the fundamental general law of nations, as by a solemn declaration of trust, founded in the compact of all nations, would seem to be an imperative necessity, the *sine qua non* of any plan in which America may join for the furtherance of world peace.

Upon examination of opinion contemporaneous with the framing of the Constitution, one is compelled to think that by the general law of nations we certainly are bound (Judge Richard Peters); that in the views of the inspired fathers we have the key to the solution of the world's vexed international problem. To coordinate these views as to the binding obligation of the general law of nations upon otherwise independent political discretion and as controlling upon substantive, sovereign power, to indicate resultant great accords between nations, and the immediate bearing on the international situation of the understandings of the men who framed the Constitution and founded our public law, to demonstrate that their ideas are foundational in respect to

world accord and the judicial settlement of international controversies, is the purpose of this paper.

ARGUMENT

"Interroga justinam generationem—for out of the old fields must come the new corn." (Coke.)

It must be conceded that that which binds the United States and all sovereign nations under the law of nature and of nations is removed from the realm of the justiciable and furnishes a guide, check, and expositor in the determination of controversies between nations and very particularly those controversies affecting the public and private interests of the United States. Whatever paramountcy treaties of the United States may be regarded as possessing is by their coincidence with this general law, their stipulation for its extended application, the enlarged equal justice, equal right, and equal duty of all nations. Upon principles, so authenticated, touching rights inherent and inalienable in all nations and all mankind, or rights consistent therewith, vested in all by the consent of all, and divestible only by like general consent, alone may be established, under existing constitutional limitations, and by a treaty of the United States, a plan and system of international justice, foundational in world accord.

Not abrogated by the adoption of the Constitution, by the division of governmental powers thereunder, nor by that between the national and state governments, the fundamental principles of the law of nature and of nations are safe for the United States, safe for the nations. The recognition of their paramount obligation

relieves from interfering powers, from clashing sovereignties. They are affirmative of what in treaties, made under the authority of the nation, is valid by the Constitution, yet of binding, legal or equitable obligation above the Constitution in the intercourse of the nation with foreign states or sovereigns. Between what is not repealable in treaties and that which is contingent upon the comity of the nation and its independent political discretion, they hold the balances of international justice.

The doctrine which has grown up, that treaties are repealable at the pleasure of the legislature, obscures this fact, that their obligation is by a law independent of the Constitution and whose justice is constraining upon the exercise of powers it confers. Washington queries: "What are the advantages of treaties if they are to be observed no longer than convenient?" (November 19, 1794). Jay avers: "This idea seems to be new and peculiar to this country, but new errors as well as new truths often appear . . . let us not forget that treaties are made not only by one of the contracting parties, but by both; and consequently, that as the consent of both was essential to their formation, so must it ever afterwards be to alter or cancel them. The Constitution has not in the least extended the obligation of treaties" (Hamilton, Works, Lodge edition, Federalist LXIV, p. 405).

Admittedly treaties of the United States, to be valid, must be made in substance and in form conformably to the Constitution; in their validity by the Constitution rests their obligation as part of the supreme law of the land; but it is their consistency with the

general law of nations that gives to their external obligation the effect of laws of nations. Thus their obligation upon the nation must be traced up to the consent of the nation in the general law of nations. The Constitution, by reference to the fundamental law of men and nations, requires that a treaty of the United States impair no inalienable sovereign right, no right created equally in all nations unless by the consent of all; that a treaty may not be construed to alter the constituting power, nor betray nor sacrifice the interests of the state, nor rob any department of government of its constitutional power, nor destroy the fundamental laws of the state.

It is now held by our courts that so far as a treaty made by the United States with any foreign nation can be the subject of cognizance in the courts of the United States, not only will it be subject to such acts as Congress may pass for its enforcement, but its modification or repeal will equally be competent in the legislature, this without distinction being made as to treaties eventual, that is complete and final *per se* and those executory, requiring the aid of Congress before, as it is said, they can become rules to the courts. Of treaties of the former class the Supreme Court has distinguished, however: "If a treaty operates by its own force and relates to a subject within the power of Congress, it can be deemed in that particular only, the equivalent of a legislative act to be repealed or modified at the pleasure of Congress." We may then deduce that treaties confirming that which is fundamental by the law of nature and of nations consistently with the Constitution, to which Congress must be presumed to be bound, which create

no new obligation but convert a subsisting one into terms of contract, a law of nations into a conventional one between the parties (Curtius: Noah Webster, or Kent, N. Y. Minerva 1795) are constraining upon legislative power. The sanction of positive contract is added to an implied one. It is reasonable to think that such treaties may be negotiated and absolutely concluded by the treaty-making power without the aid of Congress; that they are, *ipso facto*, part of the supreme law of the land and their validity judicially determinable by a rule independent of any act of the legislature. Of such treaties it may be held as said Madison: "A nation by changing the organ of its will can neither disengage itself from the obligation nor forfeit the benefit of its treaties" (Madison's Works, Vol. VI, p. 164). Kent writes: "It is well to be understood at a period when alterations in the Constitutions of governments and revolutions of states are familiar, that it is a clear position of the law of nations that treaties are not affected nor positive obligations of any kind with other powers, or creditors, weakened by any such mutation."

A general treaty, then, resting in the universal consent of nations, confirming anew that law which forms the substratum of the law of all civilized nations, has preeminently this advantage, that its obligation is above the independent political authority of nations and must constrain both their general accords and particular compacts to the common welfare, must give positive legal sanction to the fundamental law and predicate the administration of international justice upon it.

If a treaty may supersede a prior act of Congress, and an act of Congress a prior treaty, we have as Mad-

ison called it, "an imperium in imperio," the absurdity of two powers, both supreme, yet each liable to be superseded by the other. But if the judicial power transcends the ordinary legislative and executive power of the general government, and the power which concerns treaties (Wilson in Chisholm v. Georgia) it must be competent to the judicial power to adjudge a law invalid that violates a treaty within the authority of the nation and consonant with the law of nations, and to hold a treaty void which impairs rights within the security of the Constitution and the law of nations. True, the invalidity of the treaty must present a very clear case indeed (Chase in Ware v. Hylton); if the course of the nation has been a clear one, its courts would hesitate to pronounce it erroneous (Marshall in Foster v. Neilson).

Though the abstract construction of treaties does not under present law result to the appellate power apart from the ascertainment of private rights, yet, as incident thereto, if the judicial power be competent to construe the treaty in reference to the right it has founded in the municipal law or to which it has attached, it must be competent to maintain the law of the treaty, if the treaty be within the authority of the nation and substantiates that which the Constitution has approved in the law of nations. How else may it be held that treaty rights may not be collaterally prejudiced in the exercise of an otherwise independent political discretion?

If the administration of international justice is to be founded on treaties of binding obligation, the legislative power to repeal them must be referred to some other

and better test than the cognizance of the courts, their jurisdictions as conferred by Congress, or the subject-matter of the treaty as confined to those objects to which the legislative power of the nation is expressly extended by the Constitution. The assumption that treaties are laws of the land only when they establish rules whereby private rights are to be determined and when such rights are of a nature to be enforced in courts of justice, implies that the effect of the municipal law is not annexed to the result of all treaties, the Constitution and the law of nations to the contrary notwithstanding. The conception is equally erroneous that treaties which address themselves to the political departments of government become rules to the courts only when executed by Congress, and constrain the judicial power, which supremacy over judicial authority an act of Congress admittedly does not possess, nor a treaty by the Constitution. The fallacy here is in the idea that the legislative power is competent and complete without reference to the judicial power to the making of the municipal law. It leads inevitably to the conclusion that the obligation of treaties, whether self-executing or executed by Congress, is subject to an independent discretion in the legislature, and therefore is contingent and conditional. "That cannot be a perfect compact or treaty," writes Hamilton, "to the validity of which the concurrence of any other power in the state is constitutionally necessary." (March 16, 1796.) Unless positive limitation on the power of Congress, independent of the subject-matter of treaties, be deduced from the nature of the constitutional grant, no treaty of the United States, in the light of the fore-

going, may be said to have binding internal legislative effect, or indeed, perfect international obligation.

It is, however, emphatically not within the legislative power to legislate for the world so far at least as the courts of other nations are concerned. It results from the perfect equality of nations, said Marshall, "that each legislates for itself, that its legislation can operate on it alone; as no nation can prescribe a rule for others, none can make a law of nations." (The Antelope; Adams challenged Marshall's decision in The Antelope on the ground that the courts of the United States were not bound by the law of nations in such respect as it was inconsistent with the law of nature and of nature's God: U. S. Sup. Ct., 1841, in U. S. v. Cinque et al.; Marshall was declared by Adams to have stated in rendering the decision aforesaid: "The court is divided, no principle is settled.") "The power of declaring war, of regulating commerce, of defining and punishing offenses against the law of nations are among the special grants to Congress, but over that law itself," declares Adams, "thus expressly recognized and all comprehensive as it is, Congress has no alterative power" (Jubilee of Constitution, supra); "no nation can have authority to vacate or modify its treaties at its pleasure" (Jay). In the light of these authoritative statements of the limitation upon the power of the legislature both as to the making and the repealing of laws of nations, can it be doubted that the separation of powers under the Constitution has proceeded far enough for the courts to maintain the obligation of treaties amounting to laws of nations, as against statutory enactment and without resort to strained constructions? "An established rule of the law of nations can

only be altered by agreements between all civilized powers or by a new usage, generally adopted and sanctioned by time" (Hamilton). It must follow that laws of nations may not be legislated by the fiat of the Judges.

This fundamental limitation upon the power of Congress under the Constitution must attend the obligation of legislative compacts with foreign nations, and indeed that of executive agreements duly authorized by Congress. What is here denied wholly to the states by the Constitution in respect to the making of treaties and denied to Congress acting alone, without concurrent action of the treaty-making power is a federative power, limited necessarily by the Constitution, but competent nevertheless to enlarge in application the equal and reciprocal justice of nations binding each to aid the public justice of the other, wherein are involved the equal rights of all.

Observe that the early American treaties were framed to engraft great and new principles into the law of nations (The Amiable Isabella); and, notwithstanding the fact that they related directly to the exercise of powers committed to Congress, were regarded as a bar to future legislation inconsistent with their stipulations. Thus Marshall places the laws of neutrality, as stipulated for in treaties, above acts of Congress and holds that the unwritten law of nations, as understood in this country, an act of Congress may not be construed to violate if any other construction remains (Charming Betsy). Want of proof that the usage asserted had become incorporated into the code of public law imports an absence of limitation on otherwise independent sovereign power (Story, U. S. v. Brown). What higher proof of such usage as

part of the supreme law of the land than a treaty, consistently with the fundamental law, confirming general usage or extending the sanction of positive law to the unwritten law of nations? "When we find a provision universally pervading the treaties between nations for a length of time, it is high evidence of the law of nations" (Hamilton). Again, as Marshall held, a treaty must be intended to stipulate expressly for the security to private property which the law and usage of nations would without expressed stipulation have conferred so far as the positive words of the treaty permit (U. S. v. Percheman; see also Pollard's Heirs v. Kibbe), to which should be added this qualification, that such grant must not be inconsistent with the fundamental law.

Marshall avers, as to the power of Congress touching commerce with foreign nations: "The Constitution found an existing right and gave Congress the power to regulate it" (Gibbons v. Ogden). Such power is absolute, "unless by treaty or otherwise, the two countries have come to some different understanding or agreement . . . all exceptions must be traced up to the consent of the nation itself. They can flow from no other legitimate source. This consent may be either express or implied" (The Exchange). It must logically follow that otherwise independent substantive power in the political departments of government is constrained with respect to the modification of repeal of treaties amounting to laws of nations. There is here a restriction of so fundamental a nature that it cannot be transcended because of the complete absence of power. The authority then to bind the nation to laws of nations by treaty, or by treaty aided by acts of Congress (as must

necessarily be required where the treaty touches the legislative power), is to be deduced from the consent of the nation in the general law of nations, from the consistency of the treaty with the fundamental law, from the fact that only as such authority may be implied under the Constitution may the legislature in executing the treaty be construed to have disarmed its successors of their discretion and power relative to the subject-matter of the treaty without transcending the trust of government (*vide:* Taney, 10 Peters 420), this subject always to a superintending judicial power, authorized or required by the Constitution to maintain the integrity of national existence. Since treaties of the government are the treaties of the nation, the government in the making of treaties is trustee for the nation in this as in every other respect.

That the power must devolve on the judiciary to determine, in the last analysis, how far the people and the states have consented to be bound under the Constitution by treaties extending the application of the law of nations is the unavoidable conclusion. Otherwise the legislative power could be usurped by the President and Senate, or the nation committed, though Congress had concurred in the making of the treaty, to innovation upon the law of nations menacing to our fundamental institutions. Jay declared corruption of the treaty-making power not supposable: "But if it should ever happen, the treaty so obtained from us by fraud would be void." It was the intention of the framers of the Constitution to commit all questions relative to treaties and the law of nations to the judgment of courts appointed by and responsible only to the national gov-

ernment. Adams declared (December 6, 1824), "the construction of treaties depending on the judicial tribunal," that the executive could enter into no stipulation with a foreign power which would be "binding on the courts of the nation." The validity then of treaties of the United States and their binding obligation as laws of nations may not be of judicial determination other than of courts whose authority is derived wholly from the United States; and if consistently therewith, the United States reserves to itself the right to determine what questions are within its domestic jurisdiction, it must be upon principles of the general law of nations which "binds all nations."

Between independent nations there can be no judge but the Great Judge of all (Jay Corres., Pub. Papers, Vol. III, p. 400). The general law of nations and treaties conciliating territorial authority and the conflicting usages of nations with that law, importing the equal rights of all, and enlarging the concurrent jurisdiction of nations in such respect, must furnish a common factor of juristic principles applicable to controversies between sovereigns, must be acknowledged to constitute the *ultima ratio regum* in the construction of particular treaties not amounting to laws of nations. Treaties to be valid, said Jay, must consist with justice, a question to be decided "by evidence internal and external according to the rules and maxims of the law of nations relative to such cases" (April 14, 1806).

To the extent that the internal legislative effect of treaties, not amounting to laws of nations, must, by the constitution and the nature of sovereignty, remain within an independent political discretion, it would seem prop-

er that questions concerning their construction and interpretation ought, in such political discretion to be judicially determinable by a *forum concursis* of nations. It is the comity of the nations which is here involved. The resultant decision could not bind the nations but so far as founded on a law common to all would be received, not as authority to the courts of the United States, but with respect. If, however, the sentence of a *forum concursis* of nations, in a matter submitted to it by Congress at its discretion, be regarded as a new treaty, it would seem that it must be subject to the test of constitutionality in the courts of the United States before it can be said to bind the nation as a law of the land.

An important distinction must ensue between treaties amounting to laws of nations and those whose subject-matter remains within the legislative power as to private international claims and the distribution of awards flowing from national reclamation based thereon. Claims arising under treaties of the former class are perfect by the law of nations in the offending government. The treaty of award must imply in favor of the private claimant an equitable trust obligation on the part of his government to pay the claim out of the proceeds of the award. It is a claim to the justice of his own and the foreign sovereign (Story, 13 Peters 409). Kent declared that the government of the United States, to which the compensation would in the first instance be payable, would become trustee for the party having the equitable title to the reimbursement (8 Johns R. 237). The payment of such claims is neither gratuitous nor subject to the discretion of the legislature. It is otherwise as to claims arising out of the latter class of

treaties, which are founded, not in the law of nations, but which pass by the sovereignty of the nation into the realm of international law when they become the subject of national reclamation. Not until Congress has legislated with respect to their payment out of the award can it be said that such claims may be asserted in the courts of the United States.

The law of nature and of nations entering substantially into the obligation of treaties of the United States, and tacitly or expressly recognized thereby by foreign nations, parties thereto, forbids, as do the principles of moral justice, that, as between themselves, such foreign nations make any treaty impairing the rights of this nation or their duties towards it. (See Curtius supra.) This is an important limitation upon the rule that treaties have the effect of repealing; *"leges posteriores priores contrarias abrogant"* including prior laws of nations. In this light, the treaty of Versailles, the covenant of the League of Nations, and the statutes of the Permanent Court of International Justice, admittedly international contracts, may not be construed to have abrogated or annulled, with regard to this nation, the general law of nations as imported in the prior treaties of members of the League with it; nor may the great principles of the general law of nations as modernly understood in this country be regarded as having been relaxed by subsequent treaty of this nation, stipulating for rights corresponding to those granted by the treaty of Versailles. This is an important truth.

The immutable obligation of the law of nature and of nations is the stone rejected by the builders of the twentieth century in international politics and jurisprudence.

It is the only defense to the internationalism, falsely so called, which threatens our republican and democratic institutions and renders precarious a closer association of nations. In its light, the League of Nations is as to the United States, not in sovereignty but in justice, an *equal* League, as Grotius uses the word, and which the Greeks define by the word "peace." A legal fiction, it will be answered; yet, upon the recognition that the League of Nations is constrained by the primary obligations of its members towards the United States to the supreme fundamental law of nations, is postulated a closer cooperation between it and this nation in aid of its justice.

The positivism which characterizes modern doctrines of international law is unknown to the Constitution, incompatible with it and repugnant to our most sacred institutions. It is permissive of economic imperialism, of invisible transaction threatening the integrity of public international contract, of an anarchic political discretion, which in America is opposed by the formidable securities of the law of nature and of nature's God.

The great question for the American Senate, for the treaty-making power, and for the people and for the states in Congress assembled is,—shall they require of the nations that they accept the American idea of a supreme fundamental law of men and nations? "Why leave our own to stand on foreign ground?" (Washington).

XIV

THE LAW OF FLOW

AS THE DETERMINING FACTOR IN WAR AND PEACE

BY DAVID ATKINS

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XIV

THE LAW OF FLOW AS THE DETERMINING FACTOR IN WAR AND PEACE

INTRODUCTION

First. Destructive warfare arises from disregard of the law of flow, which we also call the law of supply and demand. Barriers in the path of flow, or intervals between supply and demand, result normally in alternate depression and excitement culminating in havoc.

Second. The wars of history were chiefly attempts to establish contact with supply. Today, because of the sudden compounding of scientific knowledge, supply has been intensified till it overtaxes our means of distribution. Lacking contact with internal demand, we seek to establish contact with external demand, and, failing this, we erect insulating barriers, called tariffs, against external supply. Offensive warfare is now either a quest for external demand, or an instinctive attempt to gain discretionary control of external supply.

Third. The scientific method of coupling supply and demand is the provision of adequate means of flow, or media of exchange. In the long-extended processes of modern industry, the most important of these, mechanically, is money, our measure of value; for only an ac-

curate measure of value is an adequate medium of exchange; that is, a valid inducement of effort, or supply, and a valid gratification of the desire of freedom, or demand.

Fourth. Under democracy (our political provision for coupling the national supply of effort with the national demand of freedom), economic responsibility can be imposed with basic precision upon economic domination, thus isolating, as a measurable resultant, freedom, or economic value. If this is done, we can sweep aside all our empiric make-shifts, designed originally to coerce a scant supply of effective effort. The supply of effort and the demand of freedom being in responsive contact, we are governed by the law of flow, namely, that value is directly proportional to impulse, and inversely proportional to resistance, in any given area. The ratio between total impulse and total resistance measures the occupancy-value of total area; and by employing, as a basis of currency, tax-paid titles to land-area, valued in terms of population-density, a scientific measure of value can be constructed, which is always representative of total value.

Fifth. With a scientific measure of value we have a valid medium of exchange; and national energy, like any other freely-moving stream, will express itself in constructive warfare against environment—the carving-out of its channels of flow. Facilities, such as schools, hospitals, highways, harbors, etc., which multiply value, will be created instead of commodities which, at best, if they do not actually embarrass us, only add to value.

The supply of effort which goes into the creation of facilities will emerge as a measurable demand for commodities.

Sixth. Destructive warfare cannot be averted, nor constructive warfare commenced, until supply and demand are scientifically coupled. Nations so reconstituted will be logically leagued against exterior areas of disorder in defense of their common dynamic integrity, or freedom. Otherwise the leaguing of nations is a hopeless attempt to merge and stabilize dynamic systems which exhibit identical symptoms of disruption.

APOLOGY

Given the problem of formulating a practicable plan for the advantageous linking of a number of dynamic systems of high potentiality—each one of which lacks capacity for the full utilization of its surplus energy, and also lacks receptive outlets for this surplus—a scientist would be compelled to insist, first, upon an examination of the internal arrangement of these systems. Otherwise his plan, however ingenious, would be no more practicable than the arbitrary linking of five or six high-pressure boilers, each one of which was in imminent danger of bursting. Any practicable plan for cooperation presupposes a scientific plan for coordination.

Such a precaution should also be taken if we consider linking the overflowing dynamic systems we know as Japan, Italy, Germany, France, Great Britain and the United States.

ARGUMENT

The points dealt with in the summary may be amplified as follows:

First. Destructive warfare arises from disregard of the law of flow, which is also called the law of supply and demand.

We must look beneath any notion of dynastic ambition, or human frailty, for the cause of war; since we find it evident, in one form or another, wherever there is interrupted flow:—within the individual; between individuals in a peacefully-organized society; and between civilized nations which have every facility for rational discussion. It is evident, also, in flood, cyclone, thunderstorm and cataract, and in the readjusting earthquake which marks the end of a long era of sedimentation.

Because of our intimate contact with persons and things, it is not always easy to grasp the dynamic significance of war; but, as a starting-point, it may be conceded that the normal human being functions in one constant direction: there is an initial demand for the bare essentials of freedom, or value—food, clothes and shelter—and there is a continuing demand for an amplification of that freedom, or value—for beauty and order. All these desires, or demands, give rise to a supply of effort.

As far as nations are concerned, we have, then, within cleanly-defined areas, a flow of effort in direct proportion to population—freedom demanding effort: effort supplying freedom.

It is clear, therefore, that what we are actually concerned with is a flow and counter-flow of effort, the velocity and continuity of which determine value.

Now the law of flow—of demand *coupled with* supply—has been dealt with in terms which are fundamentally similar by scientist, artist and philosopher. To confirm this, it is only necessary to tabulate their common factors of value—*cause* and *condition*:

Cause	*Condition*
Force	Friction
Voltage	Resistance
Heredity	Environment
Inspiration	Medium
Will	Destiny
Impulse	Order
Liberty	Fraternity
Love of God	Love of Neighbor.

A more extended list might be put forward; but it should not be necessary. It is significant that, in each case, value is recognized as the product of *cause* and *condition,* rather than the product of *supply* and *demand.*

When we cite a *"law"* of supply and demand, we take for granted a perfect medium of exchange between supply and demand. There is no *"law"* of supply and demand in a choked pipe. In economics we make two unscientific assumptions: first, that there is no incalculable arbitrary, coercing supply and impairing demand, such as taxation; and, second, that there is no incalculable arbitrary, inducing supply and denying demand, such as our present money.

If supply and demand are not fully coupled, the law of flow is ignored; and we cannot avoid cycles of depression and excitement—the building up and breaking down of economic ares, across which flash all the disastrous voltage of frustrated human energy. If there were only one nation involved, these cycles would terminate in panic or revolt. But there are many nations.

Separated by ocean, mountain and desert—physical barriers which modern science has made wholly ineffective—various groups of the human family, owing to heredity, inbreeding and environment, have developed highly-specialized racial characteristics. Not only have they varying conceptions of freedom, or value, giving rise to varying exertions of effort, but they have also varying conceptions of order, giving rise to varying rates of flow, or qualities of value.

We have, then, in terms of dynamics, a number of poorly-insulated systems of highly-differing, intermittent intensity. If, as we know to be the case, each of these systems is charged with surplus energy seeking an outlet, it is no light matter to have them in close contact, since the malignant cross-discharges of this surplus energy are inevitable; and it is surely no light matter to devise a practicable plan for linking them together, prior to internal adjustment.

Under the law of the conservation of energy, force is indestructible. It must function, either in free flow or catastrophe. Forgetting, therefore, individuals and policies; forgetting race, religion, and the reverberations of past adjustment we call national revenge, this internal damming up, and external discharge, of human energy is the explanation of war.

Second. The wars of history were quests for supply. The wars of today are quests for demand, or for the discretionary control of supply.

Every civilized nation, at the present time, is seeking demand and guarding against supply. Each, alike, looks vainly for outlets, or markets, for the material products of its energy; and each is erecting barriers, called tariffs, against the material products of its neighbors.

This is due to the fact that human effort, through science, or mechanical order, has suddenly been intensified in *initial* effectiveness, but is still compelled to utilize the old restricted avenues of exchange, or distribution, which were constructed for use during a period when demand was far in excess of supply.

History deals largely with an era of economic prospecting for supply—the era interpreted by Adam Smith and Malthus—in which men's work barely gave them the needs of the day.

Future economists will be able to point out a definite juncture in human affairs where supply suddenly overtook demand and all our coercive mechanism became useless. We recognize this point, even now, as the commencement of the 'capitalistic era'—referred to by many students with an animus which is very remarkable; for it was the advent of our emancipation.

While our leaders were still fighting for a meagre share in the trickling stream of supply, science broke into the spring. Whenever these leaders emerge for a moment from the flood of commodities, which is smothering them, they have not the time or breath to be logical.

(We must help Russia, so that we can sell our grain! If [under present conditions] we help Russia, she will promptly bury us in grain.

(We must fix the price of wheat to help the farmer! If we fix the price of wheat, there will be no chance for Russia to bury us with grain: we shall have done it first.)

Today, messages can be sent from one edge of the continent to the other in a moment. Electric power does the work of millions of men. Gasoline replaces innumerable horses, with a saving in grain that has come to be an embarrassment. Automobiles, highways, wireless, flying—these have all lessened the time and effort involved in the production of commodities. The flood is pouring from the dynamo, and we have no adequate return circuit.

Each of the vast power-plants of the civilized world, with its initial activity quickened a thousand-fold by the facilities of science, is charged with effort, thwarted in its flow toward gratification, and ready to strike out into areas of lower potential.

This significant search for markets—for demand—is substantiated by all our data. Because of the menacing economic congestion, we are willing to accept any type of demand, however unrelated to value, provided it serves the purpose of blood-letting. Even the discovery of a great goldfield, which yields a purely conventional token of demand, restores, for a moment, the disastrous lack of balance. War itself gives rise to conditions that approximate prosperity: current supply is cut down; current demand is intensified; and (through the issuance of bonds) future demand is hypothecated. The

flow and counter-flow of the dynamo are balanced for a moment, and all the lights burn brightly. But with peace, and the new piling-up of supply, there comes depression, even for the victor.

Owing to the weight of tradition, war is still spoken of as a quest for supply. The journalist writes of the lust for oil, coal, iron, phosphates, copper, gold and diamonds; but, to the present producers of these things, there is even now a surplus. What we really witness is a quest for the *control* of supply, so that the few effective markets may not be further flooded. The oil-bearing sands of Turkey are not needed at the moment; but this new supply threatens to choke carefully-guarded outlets. The sulphur of Louisiana has ruined Sicily. The fruit of Australia and South Africa threatens California. The eggs of China are a menace to the poultryman of Petaluma. It is a consistent story.

Germany, prior to 1914, created a purely fictitious demand by means of validated credits, and built up an evanescent commercial superiority out of a vacuum. It was a glittering dream of demand; and there was a rude awakening. We are urged by frantic statesmen to do the same thing and utilize foreign credits as a basis of currency, thus taking the shadow for the substance—but, for the moment, relieving our congestion!

France, today, is in mortal terror of the threatened deluge of the fabrications of coal and iron from the Ruhr. Italy dreads an avalanche of Austrian manufactures bearing the brand of Czechoslovakia. Even Great Britain, against all her instinct and tradition, dallies with *"fair trade"*; and, under the rallying-cry of *"anti-dumping,"* political support for tariff barriers is won from the

followers of Bright and Cobden. Throughout her vast empire, developed during the logical quest for supply, intervening barriers are being erected: Commonwealth against Commonwealth, and each of them against the Mother Country, with a shred of preference for the sake of a hard-pressed loyalty.

The United States, in the same way, is building up tariff walls against them all, over which the flood of commodities mounts still higher. Thwarted in our attempts to bar importation by penalty, we arrange for absolute prohibition under the guise of quarantine, or military advisability.

The same basic conditions prevent the payment of war-debts and reparations. *The creditor nation is blackmailed with a threat of payment in commodities.*

Sanctioned by the treaty of Versailles, areas of more ignorant demand, or embarrassing supply, such as Nauru, Southwest Africa, Western Samoa, German New Guinea, etc., were hastily preempted under Mandate C.

All these easements are momentary; and in every direction there continues the wasteful quest for external demand. The thunder-clouds of war pile up, rent at intervals by ominous flashes—ultimata, tariffs and threatened violations of territory.

What do we all fear? Hunger, famine, poverty? No, we fear the swelling tide of supply in face of our present internal congestion. There is more wealth produced, per moment, than any nation can digest—and we think of ourselves as poor! High blood-pressure is even more dangerous than emaciation.

Just as leadership, in the past, fell to those who, through taxation or conquest, effectually coerced or de-

veloped supply, and falls now to the modern imperialist who pretends to be able to guard us against alien supply by tariffs, or preempt an ignorant demand by means of *"spheres of influence,"* or *"mandates"*—it will fall in future to those who can truly develop demand. Unless this is accomplished internally by the application of scientific method, we cannot fail to suffer under the momentary remedies of the demagogue who will advocate the creation of a *fictitious* demand based upon some form of rapidly-deteriorating money.

Third. The scientific method of coupling supply and demand, or ensuring flow, is the provision of an adequate medium of exchange.

If we lived under conditions, such as those of the mythological happy hunting ground of the American Indian, where effort and gratification were immediately joined, there would be no need of a measure of value. But our present era is one in which *cause* and *effect* are far separated, so that *condition* has come, almost unrecognized, to be our most important factor, since any alteration in *condition* modifies *total value*, far more than any alteration in effort, or *cause*.

A scientific measure of value, therefore, must represent *cause* and *condition*, rather than visible value, or immediate effect, if (in spite of altered condition) it is to be a valid inducement of effort, and if (also in spite of altered condition) it is to be a valid gratification of demand, however long-postponed.

The products of effort do not belong solely to the pro-

ducer: a portion belongs justly to the facilitator who, in contributing to the improvement of condition, may have made his contribution to value twenty years ago. In the same way, a share of the product of twenty years hence belongs justly to the exerter of extra-effort today, even though in twenty years he may be idle.

We cannot insure this equity except by means of what we call money—*our measure of value, our medium of exchange, and our basis of deferred payment.* The supply of twenty years ago can only be coupled with the demand of twenty years hence, and with all intermediate demand, by means of a scientific measure of value which is always a definite fraction of total value. Significantly enough, the advocates of the certification of public improvements, if they can put forward any rational method of measuring these improvements, are far more orthodox, from a scientific standpoint, than the advocates of the certification of commodities, or of foreign and domestic credits.

In other words, our measure of value, or token of demand, must represent not only the tangible products of effort, but also the intangible value of facilities and the current cost of order. Otherwise nothing is measured in terms of total value: it is appraised in terms of discretion, which may be benevolent, but is always incalculable, and must be adjusted by subsequent paternal legislation—which is also incalculable! If our money represents more than total national value we witness inflation. Prices rise; the consumer is defrauded; and we have a boom. If our money represents less than total national value, we witness deflation. Prices fall; the producer is defrauded, and we have depression. At the present time

only by disaster—panic, revolt or war—do we obtain a momentary balancing of supply and demand.

There is no possibility of coupling supply and demand, and thus coordinating flow within national boundaries, until we have a scientific medium of exchange. Our true prosperity rests upon a rapid consumption of commodities, and the reconversion of these into human energy, to be utilized in the improvement of environment, and the production of such new commodities as are demanded. Economic value is the speed, or rate, at which this reconversion can be accomplished—a mathematical product of *cause* and *condition*—surely not the piling up of goods on shelves till the producer is bankrupt and idle.

Fourth. Under democracy, it is possible to construct a scientific measure of value capable of coupling supply and demand within national boundaries.

Democracy is our political recognition of the importance of free flow, and, by the removal of all dominating arbitraries, was designed to join the supply of effort with the demand of freedom.

From a scientific point of view, measurable value is not a matter of high or low productivity, in terms of goods: *it is a matter of precision.* A righteous monarch could provide a fairly sound currency, or medium of exchange; but, in the end, the soundness of this currency depended upon his rectitude. More than this, it depended also on his ideas of taxation; since an incalculable system of taxation is plainly an impairment of the value of money; and therefore an incalculable barrier between supply and demand.

It has been shown that value—the gratification of our desire for freedom—is the product of cause and condition. It can always be assumed that condition is adverse: otherwise there would be no exertion of effort. It is clear, therefore, that taxation, the cost of ameliorating condition, or, as the physicist would put it, "the cost of overcoming resistance," must be precise, or there is no precise value to deal with, and no possibility of constructing a measure of value, or a valid medium of exchange.

For this reason economic value was never calculable until, under democracy, or self-determination, the cost of overcoming resistance, or taxation, could be entirely divorced from discretion or appraisement.

In other words, democracy provided for the elimination of all arbitraries, however benevolent, and thus opened the way for the scientist to deal with economic value under the law of freedom, or flow.

The fundamental law of flow is that *value equals resistance overcome.* This law is also expressed in other terms in other fields, namely, that value is impulse multiplied by conductivity, or force divided by friction; but the accepted scientific statement is that value is directly proportional to effort, and inversely proportional to resistance in any given area, or

$$\text{Value} = \frac{\text{Effort}}{\text{Resistance}}$$

While this simple formula is universally accepted in every branch of science, and is a mathematical statement of the more-widely-recognized fact that value is a product

of *cause* and *condition*, an example may make it clearer: if we employ twenty mules to haul a wagon over a boggy road, the value of their effort in mile-ton-years will be very little; but if we use the mules to grade and drain the road, the value of their subsequent effort in mile-ton-years will be very great. There has been no increase in the supply of effort; but there has been an intelligent diversion of effort against environment.

It is this formula that explains the amazing material progress of modern civilization; and it is disregard of this formula that blocks the gratification of human effort, and leads to war.

If value (which we must measure exactly to provide a medium of exchange) is resistance overcome, or freedom, then our pledge of value, or money, must, in some way, express both effort and resistance. *It cannot be represented by one commodity, or by all commodities:* neither can it be measured if any dominating arbitrary is left in the system to intervene and upset our calculations.

Scientific value is the *effective* effort of a measurable population in a measurable area and a measurable time. No individual can dominate time; and, since the advent of democracy, no individual can dominate population; but an individual can (very fortunately) dominate area through private ownership. It is fortunate for two reasons: we obtain a clean measure of domination, so that we can couple this with pro rata responsibility; and we are assured a valid pledge of value which will be redeemed by the owner if placed in jeopardy to induce effort. As is evident in every civilized country, including our own, it is far too easy to put forward a token or

pledge of some dubious value that is not owned and can only be partially redeemed by erratic taxation, which is just as likely to fall on the holder of the pledge as on the giver of the pledge.

If total value is *population* × *area* × *time*, then, if all arbitraries are eliminated, the control of total area is total domination, and the control of fractional area is fractional domination. To isolate measurable value, then, the domination which arises from the control of area must be coupled with its pro rata responsibility; and it becomes necessary to arrive at the value of this area; for it is clear that value is not distributed equally. Here again, democracy, or self-determination, has come to the aid of the scientist. Population, being now free to move where it pleases, does move where it pleases, and thus measures value, whether this is the value of factory-site, climate, coal-bed, or university.

All that is necessary, then, to measure responsibility is to employ the basic factors of value—population, area and time—and we have a scientific method of apportioning the negative component of value, namely, the cost of overcoming resistance—or taxation. By the demarkation of equal zones, and the calculation of the immediate and adjacent population-density, the value of area can be arrived at with far more accuracy than our present methods permit. If we employ these non-discretionary factors—area, density and time—in the measurement of force and capacity, of power and responsibility, we have the support of an unbroken sequence of scientific precedent.

From an economic point of view, all that is proposed is to measure the value of area in terms of net yield, or

rent, which is quite orthodox—*if taxation is precise.* From a scientific point of view, what is proposed is something more than orthodox: it is essential. We must do what every scientist does for purposes of precision. He employs as his measure of value his total medium of exchange—the ultimate expression of the positive and negative components of the equipoise in which effort is exerted.

All value must be measured finally in terms of its ultimate limits: otherwise it is not value; but an unknown fraction of infinity.

The clearest scientific example of this method of measuring value is the foot-pound-second, which is a fractional expression of the volume, density, and rate of rotation, of the earth.

If by the exertion of effort a weight is lifted from the surface of the earth, we have upset an equilibrium arising from the compromise between the initial impulse of the earth and the basic resistance of the solar system. Every component of value, negative and positive, however remote or incalculable, is expressed by this unit and is involved until the exertion of effort has been exactly recompensed. When the weight was lifted the effort was exerted against the whole equipoise of the solar system. Here we literally employ our medium of exchange as our measure of value; and this is exactly what we must do if we are to measure economic value. Our unit must be a fractional expression in final terms of all value—the distribution of natural resources—the accrued and current value of education—the exertion of effort—the extent of invention—the scope of culture—*and the cost*

of order. All these values are represented in the occupancy-value of area, or net rent—*if taxation is precise.*

From a scientific standpoint, such a measure of value can only be national, since only, at the present time, can the exertion of effort (cause), and the cost of overcoming resistance (condition), be expressed in common dimensions.

The only possible scientific basis of currency—our measure of value and medium of exchange—is a lien upon a square foot of tax-paid, national area, valued in terms of population-density, which has been placed in jeopardy by its owner as an inducement of effort. It is the only pledge of value that is related mathematically to cause and condition, or total value; and because it represents both cause and condition, it is the only pledge of value that will be precisely redeemed in value. For this reason it is a scientific link between supply (which is effort) and demand (which is also effort).

Fifth. If we employ a scientific medium of exchange, supply and demand are reciprocal. The effort, or supply, that goes into the creation of facilities (or the diminishment of resistance) will emerge as a measurable demand for our surplus commodities.

Up to a certain point, which is limited arbitrarily today by our gold reserves, we can certify the so-called value represented by a bill-of-lading or a warehouse receipt; but we have no method of certifying the far more important values created by order, good-will and public facilities. *Because we fail to recognize these as*

a contribution to value, we fail, further, to recognize that the effort exerted in creating them is the effective demand we are so vainly seeking in foreign fields.

The benefit which arises from an adequate medium of exchange is a consequence of the law of flow. The simplest example of this is the case of a reservoir (demand) drawing its water from a spring (supply) through a pipe (the medium of exchange). If, because of some temporary obstacle, there is an accumulation of sediment, supply and demand are separated, and value (the rate of flow) is non-existent. If responsive contact is reestablished, supply and demand are coupled along the whole length of the pipe, and, in a moment, all movable obstructions are swept away. Effective supply has not changed; but effective demand is increased with every diminishment of resistance.

Quite apart from the contention that it is possible to construct a scientific medium of exchange, our far-sighted political leaders instinctively advocate the creation of public works as a remedy for the unemployment which arises from a lack of demand. But because of our present method of taxation, and our present method of measuring value, they encounter two insuperable political difficulties. The first is that, under our archaic tax-system, which was designed to coerce supply, the cost of these improvements is thrown largely on the producer of commodities, who is thus forced to increase his supply and, because of over-production, decrease his demand: the second is that our archaic money (which was designed to check any demand, except supply) does not certify the value of general facilities. Today we add to our capital value, and continue to regard this addition

to capital as a debit. It is not even sound accounting.

From a scientific standpoint the permanent diminishment of resistance is not in any way a debit: it is a credit far in excess of the effort expended to procure it, since economic value is effort *multiplied by* facilities —not effort *plus* facilities.

Sixth. Destructive warfare against exterior areas cannot be averted, nor constructive warfare against interior obstacles commenced, until national supply and demand are joined by means of a scientific medium of exchange.

It has been shown that, unless interior supply and demand are coupled, we cannot prevent the disastrous discharges of energy which we call war. It follows, then, that the proposed members of any useful league of nations must accept the qualification of self-determination, or democracy. No malevolent power has been interested in preventing just measurement; but only lately have our political nebulae commenced to coalesce (or determine themselves) into national entities of definite dimensions, such as make measurement possible, and justify us in the hope of becoming members of international constellations circling round the central sun of individual liberty.

When advantage is taken of this new political definition of value, or freedom, the ancient sorties for external supply and the modern sorties for external demand (both of which we call war) will be as illogical as clashes between Saturn and Jupiter; and the disastrous booms

and depressions we know as trade cycles will be as unimaginable as variations in time and gravity.

Within each of the self-determined entities which go to make up the league we call the solar system, impulse is always effective, and demand is always honored, purely because of self-determination; but no useful end would be served by planning to bring into such a league the autocratic comets that rove through outer space endlessly seeking some rift in our quiet constellations.

Between the self-determined entities in a constellation the exchange of value is benign. We light each other's skies and cleanse each other's shores. We need not rain commodities upon each other like meteorites and boast of our bombardments as favorable balances of trade—or erect a shelter of tariffs against these bombardments!

Certain surplus values will flow and counter-flow logically; and a favorable balance of trade will present only the alarming aspect of disruption. Why should we give and not get?

War will continue—heredity against environment, will against destiny, effort against resistance—a war which is always increasing demand, and always enhancing value.

If today our own channels of flow are bursting with human energy and choked with commodities, as the condition of the farmer and manufacturer testifies, and if we link this high-potential area with five or six others in the same condition, where can be the gain?

We are aware that demand is lacking in all the highly-industrialized nations. How, then, can the compounding of this lack be a guaranty of peace? Such a conception arises from our failure to realize that we are applying scientific method to everything but human wel-

fare. It is a despairing effort at common defense against the rising tide of supply, and is just as futile as the leagues of history, formed by harassed rulers in secret council, when they vainly banded themselves against the rising tides of demand.

XV

AN INTERNATIONAL CRIMINAL COURT

TO TRY THE MAKERS OF WAR

BY THEODORE STANFIELD

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XV

AN INTERNATIONAL CRIMINAL COURT TO TRY THE MAKERS OF WAR

By initiating steps for the creation of criminal international law directed against the individuals responsible for aggressive wars, the United States of America can in cooperation with the other civilized nations make a great contribution toward the maintenance of international peace.

International criminal law operating not on political entities but upon the individual lawbreaker will be following that fundamental contribution to political science made by the Constitution of the United States of America, which has well been called "the greatest political invention of the Constitution." Oliver Ellsworth, one of the framers of the Constitution and subsequently Chief Justice of the Supreme Court of the United States, expressed himself in the convention of Connecticut for the ratification of the Constitution as follows:

"Hence we see how necessary for the Union is a coercive principle. No man pretends the contrary; we all see and feel this necessity. The only question is, shall it be a coercion of law or a coercion of arms? There is no other possible alternative. Where will those who oppose a coercion of law come out? Where will they end? A necessary consequence of their principles is a war of the States one against the other. I am for coercion by law—*that coercion which acts only upon in-*

dividuals. This Constitution does not attempt to coerce sovereign bodies, States, in their political capacity. No coercion is applicable to such bodies but that of an armed force. If we should attempt to execute the laws of the Union by sending an armed force against a delinquent State, it would involve the good and bad, the innocent and guilty in the same calamity.

"But the legal coercion singles out the guilty individual, and punishes him for breaking the laws of the Union. All men will see the reasonableness of this; they will acquiesce, and say, let the guilty suffer."

The Constitution explicitly recognizes the sovereignty of our states. It provides for a Supreme Court to interpret the national laws and render decisions against individuals and enforce them by means of statutes which provide for the punishment of individuals.

Because in the development of intercourse between nations, international criminal law is an unavoidable necessity, it will in the course of time surely be established. It will make distinctions, just as national criminal law has done, between small and great delinquencies, between misdemeanors and crimes, and will impose light and heavy sentences to fit the degrees of the offenses. Experience will teach mankind which actions must, to preserve international peace, be branded as international crimes and be punished accordingly. Gradually, out of these experiences, an international penal code will be evolved. Such a code cannot be drawn up today. It is necessarily the outgrowth of a development, of which we can but plant the seeds. Our immediate task is to make criminally punishable the greatest crime that can be committed against international peace

and order; to learn by the recent and saddest experience of the human race, and thus to try to prevent the repetition of this crime.

The history of medieval Germany offers a historical analogy, well worth the attention of all those who aim to establish peace among the nations. No peace existed within medieval Germany. "Faustrecht," the law of the fist of the strongest individual, reigned there. By the strength of his own and his retainer's weapons every knight took and held what he could. The security of the citizen's life and property was daily jeopardized by the feuds between the knights and by their countless plundering expeditions against the producing classes and the merchants of the cities. The peace loving citizens, in order to protect themselves, were finally compelled to establish their own armed organizations.

In the course of time, this state of affairs was ended by the building up of the criminal law and the establishment of the "Reichskammergericht," a sort of supreme criminal court. The knights were deprived of their immunities and made subject to the criminal law, and the power of the state was strengthened to an extent sufficient to command the respect of the knights. Their infraction of the public peace was punished (1495) by "Reichsacht" (the ban of the Empire). Thus by tedious and persistent efforts peace within the empire was established. Only after this had been accomplished were the knights disarmed, all citizens prohibited from carrying weapons, and the right to maintain armed forces reserved exclusively to the state itself.

Faustrecht, the law of the fist, and the predatory violence of the knights were terminated by means of the

establishment and development of criminal law and of criminal courts.

In international affairs men are still medieval. Among nations Faustrecht, the rule of the strongest, still prevails. The international wars of our day are analogous to the feuds of the knights, and like these feuds our wars usually degenerate into expeditions for plunder, in which the state that is stronger in military force seeks, by means of territorial annexations and pecuniary exactions, to deprive its weaker antagonist of the fruits of the productive activities of its citizens.

To abolish the fist-law of nations, why not pursue the same course which was so successful in abolishing the fist-law of the medieval knights? Why disregard this instructive experience and proceed in a contrary manner? To attempt to establish world peace by disarmament, as is generally advocated, is indeed the opposite manner of procedure. It is a hysteron proteron—a putting of the cart before the horse. In the middle ages criminal law, criminal courts, and the power to enforce the courts' verdicts were the first steps. Disarmament then resulted as a matter of course. By the establishment of a strong judicial system founded in right and expressed in laws, fist-law was made impracticable and superfluous. But in our day disarmament has been demanded of the nations before international criminal law has been established and an international criminal court created. If the nations were to disarm first, each individual state would be left without efficient protection against the encroachment of other states. In consequence, the states decline to disarm and argue quite logically that they could not protect their interests in a

conflict with other states if they should give up their armies and navies. The most enthusiastic advocates of disarmament have been unable to refute the validity of this argument. And so they have modified their original proposition that the nations disarm and have substituted for it the suggestion that the nations agree to reduce armaments. From the economic point of view this is an excellent suggestion, for by mutually reducing armaments each of the states effects a saving of men and money without in any way changing the relative military strength, and thus the devastations of war are materially lessened. But the danger of war itself is not thereby obviated. War can be waged even with the uniformly reduced armies and navies.

On the other hand, complete disarmament of the nations (with the exception of the maintenance of a necessary police force) will be possible, and even follow as a matter of course, as soon as armaments and wars have been rendered superfluous—an accomplishment analogous to the disarmament of the medieval robber knights—by the creation of international criminal law and of an international court of criminal justice, the verdicts of which are duly executed. To establish these things is the great and immediate problem of mankind in its struggle for peace. The United States of America might well take the initiative in this matter.

The student of the origins of the late war, no matter to what particular country he may direct his attention, will discover that no nation deliberately and consciously desired the outbreak of hostilities. The times when entire peoples, or rather entire races or populations inclusive of each individual member, were disposed to go to

war, belong to a distant past, to a primitive stage of civilization. Those were the dark ages when a people sometimes could only obtain food and shelter by plundering and subjugating a weaker people. Agriculture, the breeding of cattle, trade and industry have settled the nations in permanent habitations, and have made it possible for all of them to secure the necessities of life by peaceful labor. Thousands of years of civilization have blunted the war-like instincts of man, and have taught him to appreciate the blessings of peace. The individual citizen now realizes that peace is the great boon for himself and his family, and that war is the great destroyer of life, health, and property. In consequence, the great masses of men in the civilized nations are peacably inclined. Even a man so little opposed to the waging of war as Bismarck admitted this fact when in a speech in the Reichstag, February 9, 1879, he said: "As a rule the majority has no leaning toward war. War is enkindled by the minority or, in absolute states, by rulers or cabinets." The thoughts of the masses are peaceful. The thoughts of their leaders are not always peaceful. The military caste and their ambitious army commanders feel that their talents wither and remain unappreciated in times of peace, and that wars offer them the opportunity to achieve honors and undying glory. That is the attitude of mind of the professional European officer, particularly in states which support great standing armies. Unfortunately, the non-military, political leaders of the nations are frequently infected by it and come to share it. Influenced by the fact that history has been written chiefly from the military point of view, a method which delights in the glorification of war-like deeds and suc-

cesses, European statesmen and rulers are often inclined not to attempt the solution of international difficulties by the tedious and unspectacular labor of diplomacy, which requires a high degree of intellectual superiority, but rather to surrender these conflicts and their attendant problems to the fortunes of war, which smiles upon the bold.

Modern aggressive wars do not originate in the conscious will of peoples, but on the contrary are caused by the aspirations and desires of their supreme political leaders. This is demonstrated by the history of the events immediately preceding the World War, as clearly revealed by the post-war publication of the secret documents of the German and Austrian governments. In July, 1914, the populations of these two countries, as well as those of the enemy states, were bent upon their usual peaceful occupations. The more prosperous citizens were calmly enjoying the summer season in the usual resorts. However, in the imperial palaces and the government buildings of Berlin and Vienna a handful of men were engaged in an international adventure, fully conscious that they might be bringing on a great war. The result was the terrible World War. If an international criminal court and an international criminal law covering the instigation of aggressive warfare had existed they would have been brought before the bar of justice and tried.

It is true that upon the conclusion of the war the Hapsburgs, the Hohenzollerns, and other German dynasties were deprived of their thrones by their respective peoples, but the motive for this action on the part of the population of the defeated nations is to be sought not

in the fact that these monarchs caused the war but that they lost the war. We may be quite sure that had the war been won by the Central Powers, the Hapsburgs and Hohenzollerns would be reigning today. Indeed they would be glorified as demi-gods by their docile subjects. To the European monarchs the war was simply a game of chance. And from time immemorial wars, as Frederick the Great himself said, have been games of chance. An examination of the secret documents demonstrates that the originators of the World War realized this very well. But to lose in a game of chance is by no means punishment. It implies neither moral guilt nor does it exert a preventive influence. Although the gamester well knows that many have lost all their possessions in games of chance, his passion for play is in no wise diminished by this consideration. He gambles because he also knows that others have made their fortune in similar games of chance. Thus the hazards of games of chance have never been able to deter men from assuming great risks. This will be true of wars, too, as long as they remain merely games of chance for the governmental leaders and their advisers who undertake them. No matter how many potentates have forfeited their crowns in the course of history through unsuccessful wars, and no matter how many statesmen have thus lost their positions and reputations, there will always be found governmental officials who are prepared to risk the great venture, which in the event of a successful issue promises them power and glory.

The only remedy for these conditions is the establishment of criminal international law and a criminal procedure which will punish the originator of aggressive war,

whether he be victor or vanquished, and which will penalize his mere attempts to bring about war even though war should eventually be averted by causes beyond his control. Not only the successful instigation of war, but also the very attempt at instigation, must be punished. History demonstrates that for every war which actually broke out there are dozens which were planned by this or that statesman, but which, whether due to the intervention of a third power or to the yielding of the threatened power or to internal dissensions in the aggressive power, failed to materialize. The attack upon Serbia, for instance, which led to the outbreak of the World War, was planned by the Austro-Hungarian government as early as 1908, and was averted at that time only by reason of the military impotency of Russia. The attack was attempted again in November, 1912, and in March, August, and October, 1913. In each instance, however, the effort was fruitless—the first time because Germany, the ally of the Dual Monarchy, protested vigorously; the second time because the London Conference of ambassadors intervened successfully; the third time because Germany and Italy demurred and the fourth time because of Serbia's submissive compliance with the ultimatum of Austria. After the assassination of the Austrian crown prince on June 28, 1914, at Serajevo, the Austro-Hungarian government finally succeeded in provoking hostilities with Serbia, having obtained the consent of Germany and having concealed its real intentions from Italy. This war enkindled the great world conflagration, as it would have done in 1908, 1912, or 1913, if in these years the hostile attempts against Serbia had not proved abortive. At that time, threats of war and warlike

demonstrations were regarded as the legitimate weapons of the diplomatic trade in Europe, and a diplomat, who succeeded in obtaining an advantage for his country by employing these weapons, was generally considered a great statesman and could be certain of general applause. Unwittingly the diplomats of Europe were playing with fire until that fire became uncontrollable and blazed up in the great world conflagration. This playing with fire must be stopped. For this reason, then, not only actual war but also the attempt to provoke war must be made liable to punishment, and in the event of the repetition of such attempts, the punishment must be made more severe. As matters stood in the years immediately preceding the World War, the nations indeed observed with apprehension the warlike machinations of the Austro-Hungarian government from 1908 to 1913, but each time the danger of war had been happily averted they went unconcernedly about their business and apparently forgot all that had happened. If at that time an international criminal law and court had existed, each one of these abortive attempts would have been submitted to the jurisdiction of the international criminal court and, because of the resultant judicial investigations, each one of these attempts would have been publicly discussed and kept alive in the memory of the people for a considerable time through the continued discussion of the contested points. The war-gambling statesmen would have had to justify their actions before this court and before the tribunal of public opinion. And because of the unpleasant comments and inconvenient revelations involved in this procedure they would certainly have refrained from repeating their attempts. Germany, who

had nipped in the bud four attempts of this sort, would in July, 1914, have protested all the more sharply against the aggressive policies of its ally, instead of becoming weak and complaisant. The Austro-Hungarian statesmen would have had to desist from playing with fire, and would have been compelled to handle their political differences with their little Serbian neighbor in a peaceful manner. These differences would not have served them to start a World War. Is mankind also to disregard these terrible lessons? Will it permit the incendiaries of Europe to continue to ply their accursed business?

The ideas of those who in prose and verse have extolled war as the source of idealism have, through the great misery and suffering engendered by the World War, lost much of their attractiveness even in the eyes of those European peoples who have grown up under a military regime. From the start these ideas were false. Long after the originators and the spokesmen of these ideas had themselves ceased to believe in them, they continued to inculcate them in order that the masses might be ready to risk their bones when called upon to do so. For instance, in the recently published memoirs of Count Waldersee, the chief of the German General Staff who succeeded the celebrated Moltke, there occurs the following characteristic passage from his diary, in which, referring to the "glorious" campaign against France in 1870-1871, he observes:

"Ein Krieg ist die groesste gemeinheit die man sich erdenken kann"—War is the worst outrage one can conceive.

In these days most civilized beings are thoroughly convinced that aggressive war is a crime, perhaps the

greatest crime against mankind that can be committed. Whether or not this conviction is expressed, it is the root of the institutions for the prevention of war which have been created in modern times. The next step is to proclaim this latent conviction and every logical consequence of it. The conviction that aggressive war is an outrage must simply be raised from the concealed basis of international institutions into an institution itself, by making it the first article of criminal international law, and endowing it with a practicable sanction of punishment. In the face of the nine years of war sufferings in Europe, what head of a civilized state, what government, would dare to fight such a proposition openly and in principle? If disarmament, courts of arbitration, etc., etc., are proposed to them they can easily conceal their unwillingness to give up aggressive warfare under a host of technical objections. If, however, they are publicly faced with the simple question whether the instigation of an aggressive war is or is not a crime, they cannot possibly escape answering with an unequivocal "Yes."

To an international commission of jurists might be entrusted the task of formulating for submission to the nations a proposed international criminal procedure, and the fundamental international criminal laws to be instituted at the start. The international court of justice at The Hague might be extended to function as an international court of criminal justice, or a separate criminal court might be created. In any event the members of the court must not be persecuted, punished, injured in any way, or called to account by their respective governments because of any utterances or decisions rendered in the service of the world court.

Of course, international criminal law will punish the aggressor only. Defense against attack and the effort to prepare against unprovoked invasion will remain the inherent right of every country and the duty of its statesmen. It may be asked whether it will always be possible for the World Court in the case of actual or attempted war to determine with the necessary degree of certainty who was the aggressor and who the defender. Historians have often grappled unsuccessfully with this problem, and in many instances have been unable to arrive at definite conclusions. The difficulty is that governmental authorities always try to assume the grateful role of the innocent victims of aggression, if for no other reason than for the resulting moral effect upon their own citizens, who are not anxious to sacrifice life and limb to gratify the ambitions of their statesmen. The statesmen seek to conceal their war-like intentions, they feign to be working for peace and attempt, not infrequently with success, to deceive the world by means of diplomatic artifices as to their real intentions and their real role. Secret diplomacy makes easy the successful practice of such deception upon their fellow men. Contemporary professional historians are kept in the dark by the refusal to let them study the secret documents. Sometimes compromising documents disappear from the government archives, and in their stead spurious documents are substituted and published. Particularly cautious diplomats do not entrust their questionable enterprises to the official records, but communicate their commands to their subordinates by word of mouth, by telephone or by means of confidential letters, not incorporated in the state archives. And so it happens that the

archives in some cases do not preserve a trace of the bellicose plans of the diplomats. And since diplomats and diplomatic subordinates are bound to secrecy by their oath of office, their insidious machinations often remain concealed from contemporaries and posterity, the professional historians included.

However, as a rule, the archives, if available in their entirety, would clearly indicate the instigators of aggressive wars. During the World War the answer to this problem was the storm center of acrimonious contention. But when after the conclusion of the war the newly-created republics in Germany and Austria published the secret documents of their predecessors, the problem was solved. The records, even though incomplete in their published form, demonstrated to every unprejudiced student that the Central Powers had been the aggressors.

The international criminal law and the international criminal court should not, of course, be exposed to the deceptive practices of dishonest and disingenuous statesmen and rulers. A criminal procedure should be evolved which will obligate all member-states to submit all their secret archives without reservations of any sort to the court, whenever the latter enters upon an investigation. Furthermore, this court should be granted the power of taking testimony under oath; and witnesses, who happen to be government officials, should in this court be freed of the secrecy imposed by their official oaths. The obligation to give testimony under oath should be extended to the supreme heads of governments even when in the national courts of their own countries these executives are legally exempted from giving testimony. The World

Court should also be granted authority to conduct local hearings in any country, if it deems these necessary, and in general to exercise all those functions by which in national criminal procedure the courts are enabled to ascertain and determine the truth. All those individuals should be punished who are proved guilty of acts committed either with bad intent or through negligence, which resulted in aggressive warfare or would have resulted in aggressive warfare had they not been frustrated. Among these individuals might be the heads of states, cabinet ministers, representatives of the people into whose hands the legal power to declare war has been placed, and also writers and public speakers who incite aggressive war. Just as, in national criminal law, punishments are graded with regard for instance to perpetrators, originators, accomplices and instigators, so in international law the punishments must be carefully graded with respect to the nature and degree of the crime committed. Private citizens should be no less liable to punishment than civil and military authorities. All legal privileges and exemptions should be null and void before the international court of criminal justice. Before it, members of parliaments should lose their immunity, and government heads, whether they be monarchs or presidents, should have no prerogatives of nonresponsibility and inviolability, but should be obliged to appear before the Court as defendants or to testify as witnesses and to submit to the sentences imposed upon them. These sentences may involve imprisonment and monetary fines, but capital punishment should be excluded. In the procuring of witnesses and in the acquisition of evidence, as well as in the execution of sentences

and judgments, all member states should agree to render assistance to the world criminal court.

If the United States of America decides to take the initiative in the creation of these new institutions, it might invite the governments of all civilized nations to participate in a conference, and then offer as a basis of discussion its own suggestions in the matter. And the United States might declare that only if all the nations interested in the reconstruction of Europe, whether actively as creditors, or passively as debtors, agree to institute and maintain criminal international law will the United States of America assist in the reconstruction of Europe.

In this manner the United States would initiate a conservative innovation in the life of nations. The suggested institutions would be better adapted than those in existence at the moment for preserving the peace of the world against ruthless disturbances and better calculated to satisfy the conscience of the world, which has been thoroughly aroused by the World War. These ideas and institutions are in accord with the logical course of historical development. If the United States would use its present dominant moral power and great influence to accelerate this development, the United States would perform an incalculably great service to mankind. Such initiative on the part of the United States would reflect the true spirit of its founders, determined as they were that its military resources must never be employed for aggressive warfare but only in defense of the United States of America. The peoples of Europe have different traditions and a different state of mind. To impart to them the American principles of the responsibility of

the individual, and to vitalize and energize this principle by the creation of suitable institutions is indeed the noblest service the New World can render for the peace and prosperity of the Old World.

I take pleasure in acknowledging my indebtedness to Dr. Heinrich Kanner of Vienna for his cooperation in the writing of this article.

XVI

FREE TRADE AS THE BASIS OF INTERNATIONAL COOPERATION

BY ERNEST JOSEPH HOWE

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XVI

FREE TRADE AS THE BASIS OF INTERNATIONAL COOPERATION

For almost ten years, each morning's paper has greeted us with some discouraging testimony about war. Often the press has coupled this news with descriptions of peace plans of one sort or another, which, since that time, have either wholly or partially failed. As a result the war prophets now outnumber the peace prophets, and the average man has reconciled himself to the expectation of greater future wars. There are hopeful signs, but they are not clearly in evidence.

It is the purpose of this paper to call attention to the encouraging factors in the situation, and to point the direction which successful efforts to promote continuing peace must follow.

The small success which attended the efforts of American Indian Tribes when they attempted to "bury the hatchet" probably resulted from the fact that the ancient custom attacked the problem from the wrong end. Had but the occasion for dispute been avoided, the hatchet would easily have taken care of itself. In like manner it is true that any significant attempt to do away with war must be aimed at its fundamental causes.

It is proper then to investigate the causes of modern war. For this purpose wars may be classified under two heads: revolutions and foreign wars.

Revolutions have often been fought to establish social

and political rights; foreign wars, on the other hand, have been motivated by a different set of causes.

Historically the causes of war cover a wide range. This is an outgrowth of the fact that in ancient times wars were waged not by nations against nations, but first by tribes against tribes, and later by handfuls of gallants against similar aggregations representing other national groups. This condition gave large play to the whims of monarchs, and wars were precipitated on small invocation. We are even told that a war was once fought over the proper method to open an egg.

There is no doubt that many pettyisms still attend the considerations which provoke war, but the root truth is that modern war is caused by the desire for material advantages. In the main, these advantages may be classified under two or three heads: better markets, an increased supply of goods, or, what is in a way but another aspect of the same thing, an opportunity for better investment of capital. It is true, indeed, that the causes of war from the point of view of an individual nation may be purely negative. One of the belligerents, in other words, may be, and often is, only protecting his own possessions. The motives behind such protection, of course, are but the reverse aspect of those which prompt the aggressor.

This much is evident: when we can eliminate any advantages which a victorious nation may acquire by going to war, we shall strike Mars the only blow from which we may be sure he will never recover.

This may be accomplished, if we will simply fall in line with the natural march of progress, which has raised civilization out of barbarism, making trade more

profitable than banditry, and substituting cooperation for unending strife. When primitive man got his first hazy conception of the great principle of the specialization of labor, which was the parent of trade, he caught the first glimmer of peace. Let it be clearly understood, that individual warfare ceased to be the rule of all mankind only when it became known that trade can be made more profitable. It is to be likewise with nations. When national groups can be made to understand the value of trade, as individuals have come to understand it; when nations will cooperate in certain well defined ways, we shall remove the impulse to war, and continuing peace will be within our grasp.

II

In 1776, at the time when a handful of American colonists were determined to break away from an England whose policies ran counter to their business interests, a college professor in Scotland published a book which has exercised a profound influence on economic thought. This book was "The Wealth of Nations." The immediate success of the volume was in great part due to the doctrine of free trade which Adam Smith, the author, advanced within its pages.

This idea, now old, has been elaborated by many economic thinkers since that time, but it is a singular fact that the central concept is still accepted by not only the best, but, I think, a majority of all serious and unbiased economists. This is an unusual tribute to an idea most of the contemporaries of which have been long discarded.

In the eighteenth century, as at the present time, there was much confused talk about the "favorable" or "unfavorable" balance of trade, and it was thought that the only profitable trade was that which showed a net import of specie. Out of these inaccurate economic impressions grew the complicated system of import and export restrictions employed in England at that time.

Adam Smith strove to clarify all this, and it is worthy of note that much sooner than he himself ever hoped, his principles were put into action in England.

The ideas which Adam Smith expressed have never for a moment escaped the notice of economists, but they have been pushed into the background of popular thought, and therefore it is important to review them here.

For our purpose, we may define a condition of free trade as one in which capital and goods (in so far as these two concepts are separable) may move from state to state and from nation to nation without unnatural or legislative interference.

To accomplish a condition of this sort not only involves an elimination of barriers, as such, but also presupposes a state of society, in the respective countries, in which goods and capital are safe. Modern business, as we know it, cannot exist under conditions where the rights of property are not respected, and it is scarcely necessary to remark that in order to have free trade between nations, as an operating fact, the nationals of each country must be reasonably certain of their continuing right to hold and exchange property within the boundaries of other nations.

The general principle of free trade is simply an expan-

sion of the basic idea of modern civilization—cooperation. As long as each man in the world tried to do everything for himself, there was little progress. When, however, the man who could make arrows best devoted himself to that, and when the best hunter spent his time hunting, there were better arrows and more food. It is equally plain that a tailor may have a better house if a carpenter builds it, and it is also true that the carpenter may have better clothes if the tailor makes them for him.

The same gain is manifest in the trade of cities and states everywhere. Pittsburgh makes steel and exchanges it with Boston for shoes. The trade is a benefit to both, for the shoes would have cost more if manufactured in Pittsburgh, and the steel would have been more expensive to make in Boston.

Adam Smith illustrates a further expansion of this principle with the following example (Harvard Classics, Volume 10, pages 379 and 380):

"If the tobacco which, in England, is worth only a hundred thousand pounds, when sent to France will purchase wine which is, in England, worth a hundred and ten thousand pounds, the exchange will augment the capital of England by ten thousand pounds. If a hundred thousand pounds of English gold, in the same manner, purchased French wine which, in England, is worth a hundred and ten thousand, this exchange will equally augment the capital of England by ten thousand pounds. As a merchant who has a hundred and ten thousand pounds' worth of wine in his cellar is a richer man than he who has only a hundred thousand pounds' worth of tobacco in his warehouse, so is he likewise a richer man

than he who has only a hundred thousand pounds' worth of gold in his coffers. He can put in motion a greater quantity of industry, and give revenue, maintenance, and employment to a greater number of people than either of the other two. But the capital of the country is equal to the capitals of all its different inhabitants, and the quantity of industry which can annually be maintained in it is equal to what all those different capitals can maintain. Both the capital of the country, therefore, and the quantity of industry which can be annually maintained by it must generally be augmented by this exchange."

Under a condition of free trade, the goods for each market are produced only at those places where the process can be accomplished at least cost. This means that there is the very maximum production—the very maximum comforts of life—with a minimum of labor. Every individual and hence every nation is enriched by this cooperation.

III

So much misconception is currently met in the United States in regard to the consequences of free trade and the advantages of tariff, that it is advisable to digress here from the main line of thought to explain the fallacies of these ideas. Among the most common arguments against free trade, and conversely for protective tariff, are that protection creates a home market and makes employment, and that it raises wages and keeps them high.

Let us first investigate the proposition that protection creates a home market. Whenever a protective tariff

wall is raised, one of two things must happen in regard to the goods which are no longer imported. Either the consumers of these goods must go without them or they must contrive to have the goods manufactured at home. The actual result is somewhere between these two contingencies; that is, some consumers go without because of the higher price, while others must pay more for the same commodity. The fact is that a home market is created to the detriment of everyone who must buy in it.

An example may make this a little clearer. Let us suppose there is a high protective tariff on silk cloth. It then becomes profitable to make silk in this country. Those people who turn to the silk business exchange the silk they make for food and other necessities of life. The silk, of course, might have been produced abroad and imported more cheaply. The farmer and the other producers who exchange their goods for silk are losers, for they might have exchanged the same amount of produce for more imported silk.

Another argument for protective tariff is that it is supposed to make employment. It should be clear, in the first place, that the whole object of machinery and the other economic devices of civilization is to produce more with a given quantity of work. If the wants of everyone could be satisfied by seven hours work a day, no one would work eight hours. What everyone wants, of course, is not more work but more return for his labor. Protection stands directly in the way of this. When a tariff wall is raised there are fewer imports. This is the purpose of a protective tariff. Now if imports decline exports must decline also, for exports are paid for

with imports; so if protection increases the demand for labor to supply home needs, it decreases the demand for labor in the export field.

The third contention used in support of protection is demolished with clarity by Professor F. W. Taussig of Harvard (F. W. Taussig, "Principles of Economics," Volume 1, pages 512-514.):

"In the United States, by far the most common and most effective argument in favor of protection is that it makes wages high or enables them to be high. With many persons it is an adopted article of faith that American wages are kept high, and the American standard of living can be maintained, only if there is protection against the goods made by the cheaper labor of other countries.

"With this belief goes another closely similar: that free trade may be advantageous between regions which have the same general range of wages—the same standard of living — but it is harmful to a country of high wages when carrying on trade with one of low wages. Between different parts of the United States, or between the United States and Canada, or between Great Britain and Germany, unfettered exchange, it is said, may be permissible. But not so when the United States and Germany confront each other in the exchange—least of all if a country like Japan or China stands on the other side! This fear of universal levelling rests on ignorance or misunderstanding of the causes that lead to the differences between countries in money wages, in prices, in general prosperity. There is here the same ignorance and misunderstanding as in the argument from pauper labor competition. None put forward in favor of pro-

tection is more specious and widely held, none is more fallacious.

"Evidently, the argument is not of universal application. How could there be any exports at all, if lower wages always gave the foreigner the advantage? As much is exported (virtually as much) as is imported. The exported goods are made by laborers who get high wages in the United States; yet these goods, so far from being undersold in foreign countries, are themselves underselling those of the foreigners. The explanation is simple: the effectiveness of labor in the exporting industries is great, and therefore high wages and low prices coexist. And that effectiveness is the *cause* of the high money wages; and these wages, again, may or may not be accompanied by high prices of the domestic commodities which are outside the realm of international trade. This whole subject cannot be understood except in connection with the principle of comparative advantage. In those industries in which the United States has a comparative advantage, in effectiveness, high wages can be paid, and yet low prices accepted, with profit to the employing capitalists. In those in which there is no such advantage, the current high wages cannot be afforded. In this latter class, though the industries in that sense are well adapted to the country, they encounter the difficulty that other industries are still better adapted, yield still larger returns, and set up a prevalent high rate of wages which these less advantageous industries cannot sustain.

"Of course it is true that, when once industries which possess no sufficient advantage have been established under the shelter of protective duties, high wages can be

maintained *in those industries* only by the continuance of the duties. This sort of situation—the existence of industries dependent on duties—was historically the occasion of the protectionist argument about wages. Wages have always been higher in the United States than in other countries. Before a protective system was adopted, it would have been absurd to say that they were due to any such system. When new industries are called into existence by protection, they must, of course, in order to secure their workmen, pay the same wages as are generally prevalent, and once they are established, it can be maintained with reason that high wages to their workmen are dependent on protection. As long as the workmen remain in those industries, the high wages they receive are so dependent.

"The free trader argues that if the duties were given up and the protected industries pushed out of the field by foreign competitors, the workmen engaged in them would find no less well paid employment elsewhere. Presumably they would betake themselves to the exporting industries, in which labor is advantageously applied. The protectionist answers that there would be 'overproduction' in those industries—that more goods would be produced, prices would be lower, and then wages lower. No, replies the free trader—there would be more goods but not lower wages. For there is a new demand for these exportable goods. The new exports must be paid for by imports; there is a new foreign 'market' replacing the lost domestic 'market.' Goods are imported which were formerly made by protected industries. The eventual result, says the free trader, is that more workmen will be turned to the advantageous industries, and

more goods will be exported in exchange for more imports; there will be higher wages (in terms of commodities) all around within the country, resulting from the more productive direction of labor.

"In all this reasoning, the free trader is right."

There still remain two arguments which are currently advanced for protection which should be considered before we return to our main theme.

The first is the so called "infant industry" argument. There is a certain amount of momentum which must be overcome when an industry gets its start. At this period, the argument proceeds, the "infant industry" should be protected from foreign competition.

Of course the theory is that the protection is for only a short time, after which, the "infant" may walk abroad for itself. One very practical difficulty with such an idea is the impossibility of determining whether the tariff is incubating an industry which will prove sturdy in the open air of free competition or whether it is coaxing one which cannot endure the rigors of unsheltered life. Of as much importance as this, also, is the fact that any great need for a new industry will be reflected in an opportunity for increased profits. Such a condition will not long go begging.

The last and perhaps the most important argument for protective tariff is one of national defense. We should protect those industries which are necessary for the successful prosecution of war. In the present state of international relations, it would scarcely seem wise for a nation to disregard all means of defending itself. Should we not then have a high tariff on war industries?

The answer is that there is a much better way of protecting them.

If we are fostering unnatural industries within our borders, it is only right that we should know what they are costing us. Under a system of tariff this is impossible. There is also no reason why we should pay more for the protection which these industries give us than is necessary to support them. A tariff may be raised to a point where very large profits are possible, unless some competing domestic industry intervenes. There seems to be no reason why the American consumer should pay for this.

It is also worthy of note in passing that as the tariff system exists today, it presents the greatest opportunity of government to bestow favoritism on great "interests" at the expense of consumers which can be found in any department of modern statecraft. The fact that tariffs may be drawn so that they become very lucrative to a few powerful groups, at the expense of everybody else, is probably the greatest real reason for their persistence.

There is not a single beneficial effect of tariff on war industries or any others, which can not be equally well accomplished by subsidy. Subsidy has the additional virtue that the public can see and know the exact amount of public aid which particular industrial groups receive from the government. The tendency to overpayment under subsidy is much less, and the public has a tangible expense to weigh against the benefit of its industrial armament. As the need for armament diminishes, it is as simple to whittle or withdraw a subsidy as to stop contracting for additional battleships.

IV

Up to this point, we have concerned ourselves primarily with the strictly economic benefits of free trade, and, on the other hand, with the misconceptions about, and the disadvantages of, protective tariffs. This has been simply a review of century old fact, to crystallize known truths in regard to the solid economic advantages of a free trade policy. From this point on, we may devote our attention to a more neglected aspect of free trade—its bearing on the problem of war.

For this purpose, we have already determined the causes of war. Although the political terminology is confusing in this regard, a thoughtful study shows that in the last analysis, the causes of war may be traced to three principal roots: the desire for markets, the desire for goods, and the desire for opportunity to invest capital.

Let us investigate the desire for markets and the desire for goods under a condition of free trade. There are no barriers; each commodity is sold where it will command the highest price, irrespective of national boundaries; each merchant sells his goods in the best market the world affords. Likewise, if there are no trade restrictions, goods can be bought where they are to be had most cheaply. No amount of fighting will produce a better market or a cheaper supply. On the contrary when every merchant in the world buys with the least possible cost and sells to the best market there is, and when by the same token every consumer gets the benefit of minimum cost, there will be the strongest disinclination on the part of everyone to have a change.

The third cause is in reality but another aspect of the second and the first. Capital is employed simply to produce goods and to facilitate exchange. A restriction on the mobility of capital, then, operates as a barrier to the movement and production of goods. If capital is unhampered it speedily seeks employment where it is most productive. At such a point it receives its maximum return. There is no conceivable way by which a destructive process such as a war can increase the productivity of this capital by the merest fraction.

In these facts, lies the hope of peace. If a condition of free trade exists, no war can either build a better market, reduce the cost of goods consumed at home, or add a farthing to the return of capital. War then finds no motives for its propagation. The realization of such a condition is the surest guarantee of peace. If there were international unrestricted free trade, the material motives of men, far from spurring them on to war and waste, would hold their passions in check through the sheer force of business interest.

It does not require a profound knowledge of history to see clearly that the desire for material things, which was part and parcel of the earliest men, has shown no signs of abatement. Any consideration of the conduct of mankind must accept this tendency as the physicist accepts the existence of matter. The current philosopher sees this fact and regards the progress of the world as damned by these human limitations. "We shall never have peace," many a modern soothsayer laments, "as long as human nature has this insatiable material craving."

This is very shallow reasoning. These very cravings,

which our pseudo-philosopher decries, are to become the mainspring of peace. The foundation of government and the impulse behind law and order is here. The day will come when these same desires for material things will cause nations to live side by side as peaceably as now do any two of our United States. These desires have caused individuals, and clans, and tribes, and cities, and states to cooperate to their mutual good, and we may depend upon their continued activity to bring nations also to live together in peace.

Since long before the dawn of history, material cravings have brought men to cooperate. In fact, man's first cooperation was probably with matter itself—he used rude tools of his own making. In this state every individual was always at war with every other. Later he learned to cooperate with other men. Then the main direction of warfare was between clans. Still later we see tribes develop, and finally there are cities and states and nations, as a fuller realization of the principle of cooperation has been achieved. The simple reason for this steady progress of unification into larger and larger groups is the benefit which may be derived from the increasing specialization of labor. We must come to realize also that nations have special aptitudes as well as men. It is in this divine fact that we find the germ of all trade, and just as surely the foundation of lasting peace.

All this would have been realized sooner, had not the progress of invention been delayed. The original restrictions to trade were rustic and cumbersome means of transportation; the modern trade restrictions are but outgrown ideas—barriers made of old laws.

Where can we find our excuse for policies which say, "Let us legislate against the use of our railroads; we must prevent the fullest uses of our ships!" What shall we do with the zeppelins? Are they to be used for no purpose but war?

Science has developed for us these great physical agencies, by means of which the whole world is now smaller for us than was once the area encompassed in the Roman Empire.

If we will but let our inventions operate, we shall soon have a united world. Each part will be coordinated with the rest; each will have its functions, and there will be as little tendency to make war as there is for the right hand to war against the left. Almost every modern mechanism draws its ingredient elements from widely separated geographical areas. The world was so made; we are forced to accept it. Even the very climatic zones are so arranged that the southern hemisphere is the agricultural complement of the northern hemisphere. When it is planting time in the north, it is harvest time on the other side of the equator.

"As a matter of fact, the resources of the world have been scarcely touched. This is especially true of the tropics, the largest of the zones, and there is enough untilled land, undug mineral, uncut forest, uncropped pasture, to absorb the capital of Europe and America for many decades to come, and to build up a trade many times as great as that of the present, with larger exports, and still richer imports for all."*

*J. Russell Smith, "Trade and a League of Nations; or Economic Internationalism," the Annals of the American Academy of Political and Social Science, May, 1919.

The problem confronts us as to whether we will permit these products to find their natural course in trade, or whether we will restrict them—use them uneconomically —and then add waste to waste by warring over them.

We find the greatest wealth and continuing peace in the same direction. There is but one sensible course of action. Like the Wise Men of old let us alter our courses and follow our star, that we may realize the prophecy, "on Earth Peace, Good Will toward Men."

V

What can the United States do?

We have one general rule to follow. Anything which promotes the free mobility of capital and goods; anything, in short, which fosters the growth of healthy trade is a step in the right direction.

In the first place, for our own national benefit, as well as to promote peace, we should institute a tariff policy which will bring about a general transition to free trade. All interference with the trade of other nations through tariff or transit restrictions should ultimately be entirely discontinued. In addition to this, we should make plain the right of the nationals of other countries to hold and exchange property in the United States.

The greatest benefit to be had from such a policy comes, of course, when all nations treat all other nations on this same basis. To this end, it is advisable to call a conference of nations, with the purpose of inducing all of them to adopt a similar policy.

This program would make possible the payment of international debts and would also remedy sooner than

any other method the present disorganization of foreign exchange. The plan does not necessitate a super-structural government, and has the additional virtue that it is based on private property and exchange, the two fundamental ideas of modern civilization.

Any protection which infant or war industries need can more cheaply be given them by bounties.

Only one form of tariff should remain: the anti-dumping tariff. This kind of tariff simply states that goods shall not be sold in this market at lower figures than the same kind of goods are sold in the country where they are produced.

When this simple plan is achieved, we shall have peace, and peace on a natural basis. Not only are the causes of war in this manner avoided, but the system of free trade is of itself profitable, and, once understood, will be preserved for its own intrinsic merits.

XVII

THE WILL TO PEACE AS THE *SINE QUA NON* OF INTERNATIONAL CO-OPERATION

BY RT. REV. CHARLES H. BRENT

The Right Reverend Charles H. Brent (Bishop of the Diocese of Western New York since 1918) was consecrated Bishop of the Philippine Islands in 1901. In 1903–4 he was a member of the Philippine Opium Commission; in 1908–9 Commissioner for the United States and president of the International Opium Commission. He was chairman of the U. S. Delegation to the International Opium Conference at The Hague in 1911 and president of the conference in 1911–12. Bishop Brent has been a member of the Board of Overseers of Harvard, and Duff lecturer at Edinburgh, Aberdeen, and Glasgow. He was at one time on the editorial staff of *The Churchman*, and has written widely on religious subjects. In 1918–19 he was Chief of Chaplain Service, G. H. Q., A. E. F., in France. Bishop Brent represented the United States on the Committee on Narcotics of the League of Nations in May, 1923, and again at the Assembly of the League in September. He is a director of the Church Peace Union.

XVII

THE WILL TO PEACE AS THE *SINE QUA NON* OF INTERNATIONAL CO-OPERATION

The following are inalienable and immediate responsibilities of the United States:

1. As the great creditor of the world, to take the first step in economic reconstruction by a program of study and action in which we make the first offer of sacrifice of money.
2. As the great victor nation which gained most and lost least in the World War, to present to the world proposals making for universal peace and substituting for the arbitrament of war a plan of judicial settlement.
3. As the most prosperous and wealthy nation of the world, to devise means for humanitarian action in terms of international life, not as a substitute for but in addition to our charities and Lady Bountiful largesse.
4. A democracy that looks to the people for its policy, must set new educational processes in operation making for peace and good-will, and denuding war of its pseudo-glory.

The proposals herewith submitted are based upon the following principles:—

1. The approach to peace and a warless world is not a blind experiment with a hypothetical goal, but a sure

progress toward the unalterable mind of God that mankind shall become one family according to His design and purpose. God wills intelligent and sympathetic fellowship among nations, and when man wills likewise the task will be concluded.

2. Progress is dependent upon leadership. Those nations which have had the widest experience in harmonizing diverse elements in a single commonwealth and in moulding many corporate units into a unified state are responsible for blazing the international trail. Among such states America stands *facile princeps*, for the United States consists of a commonwealth of nations welded together by good-will expressed in a written compact.

3. Leadership, whether in local matters or in world affairs, involves and demands willingness to sacrifice anything short of moral principle for the benefit of the body corporate. As the individual is required by organized society everywhere to subordinate his preferences and plans to the well-being of the community of which he is a part, so likewise must nations learn to think and act in terms of mankind, interpreting their own rights in the light of universal rights and standing ready to serve the commonwealth of mankind at cost to their own immediate prosperity and interests.

The world's need is America's opportunity. Nor is it an untried course for the United States. It is only logical that our nation, having made lavish, almost reckless, sacrifice of life and treasure in war for the sake of victory, should be ready to do likewise for the sake of peace.

4. Opportunity can never escape peril as a running mate, so that the United States can neither save itself nor

serve the nations without risk and the uncertainty of immediate results accompanying it.

5. Nothing mechanical can meet the moment's need. Given the disposition for peace, formulae, political, economic, religious, become effective for their purpose. But only so. The problem is chiefly an educational one, touching the conscience and imagination not less than the reasoning powers, and it demands time for fruition. Until by an educational process the peace plan proposed, whatever it may be, becomes the program of the people it cannot avail.

With the foregoing principles as a background, we are in a position to deal with America's responsibility as peacemaker.

I. An emergency exists which calls for prompt action.

II. A permanent policy making for international good-will, co-operation and peace must be framed to cover the future.

III. Means for humanitarian action should be devised in terms of international life.

IV. A definite plan for education in the ways of peace should be prepared.

I. It is believed abroad, and admitted by most statesmen and thinkers in America, that the aid of the United States is indispensable and urgent for the solution of the economic problem of Europe. Whether soon or late, the United States must share in settling the question of reparations. In that we ourselves have no reparation

claims on our erstwhile enemies, we are on a different plane from that occupied by France or others of the Allies. By invitation from them we can participate in a conference called to deal with the problem. As a nation friendly to all concerned, we can offer the service of mediation. But in either case we have the distinct disability of not having our interests affected in the direct way that European interests are affected. Should such a reparations conference be called and should its findings demand financial concessions and sacrifices on the part of the principals in the dispute, it would not be seemly for America, the great creditor nation of the world, to rest content with rendering the service of adviser without making voluntary concessions and sacrifices of analogous character. The matter of reparations, the solution of which is of immediate importance, is only part of the whole economic problem. The question of debts is just as urgent as that of reparations, both being parts of one whole. Here, however, is our nation's opportunity. One of two courses is open:

(*a*) In urging France to withdraw the restrictions imposed on any consideration of reparations, let the United States agree to call another conference to consider the whole economic situation with special reference to debts. This conference should meet concurrently with, or immediately upon the close of, that on reparations, and America should have a program of sacrifice, sealed until the conference is convened, after the manner of that presented at the Conference for the Limitation of Armaments. We must be prepared to do ourselves that which in any conference on reparations we would ask of others. Such a proposal would give our

Government a right to require a place on any commission of inquiry or conference on reparations.

(*b*) Should France remain immovable, the United States on the basis of a complete international economic program, would be justified in joining in a reparations inquiry with the balance of the nations concerned, and isolate France by leaving her out in any subsequent consideration of debts or economic reconstruction. If France blocks the way to a full consideration of all that pertains to the economic welfare, the other nations can find no little justification in warning France that world necessity forces them to act independently of her support and participation.

It is not merely France but also the world that needs to know Germany's financial and economic capacity. Parallel with France's study of Germany's financial condition from her angle, the United States in conjunction with Great Britain and such others of the Allies as were willing, might profitably conduct an inquiry from their angle. France's active co-operation is not indispensable, and the findings of such an official inquiry on adequate evidence, which would not be wanting, would be universally accepted.*

II. The only general effort to organize the world against war and for peace is that in which the United States has no active share—the League of Nations. Neither has the United States produced or suggested any movement superior to, or a substitute for, the League. It is doubtful whether we could do so were we to try, though

*The action taken by the United States since the above was written, fails, in the judgment of the writer, to meet the whole problem squarely.

as the League's greatest critic, it is our business, if we cannot enter the League, to indicate some other and more worthy plan. This holds true of any nation that declines to enter the League but it is the peculiar responsibility of the United States so to do, in that an Association of Nations is the principle upon which the Constitution is framed, that the Covenant of the League is largely the creation of American thought and initiative, and that the weakness of the League is more due to our vacant seat at its council table than any other single cause. The Covenant of the League is viewed by all thinking citizens but a negligible few as the embodiment of a desirable ideal, though, in the mind of some, a faulty embodiment unduly imperilling our highest interests, in the mind of others as a good working compact, provided certain articles, as for example Article X, were amended or eliminated, and in the mind of a still further group as sound enough to warrant our adhesion with the prospect of amendments being made later.

The family or community of nations cannot remain for long an indefinite ideal, lacking embodiment, without suffering eclipse. The only means to give it expression is along the lines of our own history—by a written compact or contract signed by all members of the family concerned. Our Constitution proved so faulty as to allow of a Civil War within three quarters of a century, and to necessitate, in less than a century and a half, more amendments by nearly three times than the original number of Articles. However the community of nations may have blundered along in the past without general articles of agreement, the time has arrived when without such a compact we face the imminent peril of a chaos

that will engulf the world, America included. In view of this fact, which is indisputable, however unpleasant, the United States cannot afford the improvident policy of awaiting a possible chance of entering the League with or without reservations, on some near or distant tomorrow, or for the appearance of some instrument superior to the Covenant. It were sheer folly to suppose that the nations of the world would accept a new document were America to produce it, after our having participated in shaping the one which is and then repudiating it as a nation. Until or unless the United States enters the League as a member, it is our business to seize and multiply all contacts with the nations of the world for immediate purposes. The Covenant of the League affords an approach to fifty-four nations unprecedented in history.

Upon invitation by the League the United States appointed in 1923 representatives, first to the Advisory Committee of the Council, and later to the Assembly, for the consideration of the narcotic problem. As a result the United States secured the acceptance, by the fifty-four nations represented at the League, of principles adopted six months before by the Congress of the United States, and action was taken to put these principles into effect by the calling of two international conferences to convene within a year.

Compare with this our past experience. With difficulty we secured a Commission representing eight nations after three years and a Conference composed of twelve nations after a further delay of two years. Whereas through the League and its extraordinarily competent Secretariat, action of a much more vital character was

secured from the representatives of fifty-four nations within five months after being presented to the Advisory Committee. There was no "entanglement" or peril of "entanglement" in the process. The United States simply worked with the League as an associate under Article 23 on Social Legislation, which deals with humanitarian problems. This Article affords material for a compact with the States members of the League to work out all such matters in company with them through the prompt and efficient instrumentality of the Secretariat which is in permanent operation. There could be no objection on the part of the League in that America's participation on the above quoted occasion as well as in connection with the traffic in women and children was upon invitation. There is every reason why America should use the opportunity afforded and initiate action in any matter that would come under Article 23.

Framing a definite policy from this illustrative experience, the United States should set out to discover what points of contact are given with the States members of the League under the various Articles of the Covenant, and use them as the means whereby to work out all problems common to the United States and the nations represented in the League.

Beginning with Article 8 the Covenant of the League states a principle and a duty of as much concern to the United States as to any member nation of the League, the Reduction of Armaments:—

"The members of the League recognize that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety

and the enforcement by common action of international obligations.

"The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments.

"Such plans shall be subject to reconsideration and revision at least every ten years."

The first three sections leave no room for essential alteration. They formed the subject matter of the *ad hoc* gathering at Washington known as the Conference on the Limitation of Armaments. It calls for no argument to insist that a permanent conference on such a subject is superior to an *ad hoc* conference, and that an agreement among fifty-four nations is superior to one among any lesser number.

The fifth section is at any rate worthy of study by the United States:—

"The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety."

The last section is in full accord with our principles of open agreements and of appeal to public opinion:—

"The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programs, and the

condition of such of their industries as are adaptable to warlike purposes."

Article 11 in principle formulates the mind of the United States:—

"Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise, the Secretary-General shall, on the request of any Member of the League, forthwith summon a meeting of the Council.

"It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstances whatever affecting international relations which threaten to disturb international peace or the good understanding between nations upon which peace depends."

Substitute the words "Nations of the World" for "the League" or "Members of the League" and the modus operandi alone remains to be determined. The controversy arising out of the recent Italo-Greek trouble has for the moment obscured the real issue. The test will come when the next problem of similar character confronts the League. In the meantime, unless the United States can produce some superior machinery to mobilize the mind of the nations in such emergencies, that of the League stands as the only considerable check on the arbitrary action of nations quick to use the plea of "national honor" as an excuse for the hasty use of force.

In Article 12 the mind of the United States is again reflected:—

"The Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.

"In any case under this Article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute."

Here, more perhaps than in any Article of the Covenant, there is opportunity for world accord. Read instead of "the Members of the League," "the Nations of the World" and we have the formula of decision by law instead of by war. The Council as arbitrator is optional. Resort to established Courts of First Instance and to a final Court of Appeal would meet the requirements of the case.

Using this as a principal point of contact with the nations of the world, the United States has opportunity for leadership of immediate and momentous character.

The Constitution of the United States contains little bearing on foreign relations, and that little in a general way (as e. g. in Art. I Section 8, II Section 2, III Section 3), except in terms of war and its causes. When the Constitution was drawn up the central thought was self-preservation for our country, secured as far as possible by political self-isolation. Now there should be recognition given to the interlocking interests of all nations, the expectancy of international comity, and the elimina-

tion, or at any rate the minimizing the possibility, of war by writing in an amendment to the Constitution which, while safeguarding the sovereignty of the nation, looks with friendliness on our relationship with sister nations. The absurdity of war may perhaps best be demonstrated by matching against war, judicial methods. If law is given a chance, it will win in the long run. There should be an amendment to the Constitution to the effect that: The Congress shall shape international policy on the following principles—That law, not war, establishes the right; that in all controversies, including those which involve national honor, between the United States and other nations, recourse shall be had to judicial measures for settlement; that aggressive warfare is an international crime; that war breeders or instigators and war profiteers be indicted and punished; and that in no case shall the Congress declare war until at least three months after the international court of arbitration or of justice to which the matter in dispute has been submitted, has made its award; that the War Department be termed the Army Department.

The proposed Amendment to the Constitution can be fully effective only if other great nations like Japan, Great Britain, France, Italy, Germany, and Russia take similar action. Such as have written Constitutions should be urged to a like amendment and those which have not, to the necessary legislation to make action binding. It is the business of the United States boldly to encourage it by definite proposals. Article 12 of the Covenant affords direct approach to fifty-four nations. The balance can be reached by individual approach.

The principle of arbitration of disputes is enunciated

in Article 13, and even if the United States is not party to the pact which it represents, it is irrevocably committed to the ideal embodied in it:—

"The Members of the League agree that, whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration and which can not be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration.

"Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration.

"For the consideration of any such dispute the court of arbitration to which the case is referred shall be the court agreed on by the parties to the dispute or stipulated in any convention existing between them."

Action in connection with Article 14 is before the country:—

"The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly."

America must either accept the general lines of the Hughes plan for making the League Court a World Court or else produce something superior and of a char-

acter that will win over the states that have ratified the protocol of December 16, 1920, establishing the present Court. Common sense advises acceptance of the Court; that is, provided that the election of judges be by representatives of all nations and not only by member states of the League. But the League offers the opportunity of machinery reaching its fifty-four member states whose representatives could act in the matter of selection of judges not *qua* League members but *qua* states of the community of nations. If the attempt to discredit the Permanent Court of International Justice on the score of its failing to meet the confidence of the member states of the League had been applied to the Supreme Court of the United States at the end of a like period after its formation, it would have been more just than in its application to the Permanent Court. The Supreme Court had had no cases after two years of life; the Permanent Court has had four. Nor can any man say how many of the twenty-three quoted as cases that should have been submitted since the establishment of the Court, would have been given for adjudication, or how much dissension and strife would have been prevented, had the United States been a participant in the Permanent Court from its inception.

The beginning of a codification of international law by an international conference must move concurrently with the development of the Court.

Using the Permanent Court as the foundation of a court of final resort in international disputes would not preclude the possibility or desirability of Courts of First Instance composed of a representative of each of the

nations at odds with one another and a representative of a neutral nation agreeable to the disputants.

Article 18—Registration and Publication of Treaties—is consonant with the American mind in its purpose and its terms could be complied with to advantage by a non-member of the League, omitting the last sentence: "No such treaty or international engagement shall be binding until so registered."

Article 21—Monroe Doctrine not Affected—is a protection of American rights and traditions in international engagements for securing the maintenance of peace.

Article 22—Mandated Territories—is framed on the duty of the stronger to protect the weaker. Long before the word "mandate" was used in its present connotation, the United States in Cuba, Porto Rico and the Philippines expressed in practice the belief that to territories "which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization." The time for the acceptance by the United States of further responsibilities of this sort has passed but the principle is American and cannot be gainsaid.

Under Article 23—International Social Legislation—there can be full and unreserved co-operation by the United States with the member nations of the League touching: (*a*) "fair and humane conditions of labor for men, women and children"; (*b*) "just treatment of native inhabitants" in dependent territories; (*c*) "traffic in women and children and the traffic in opium and other dangerous drugs"; (*d*) "trade in arms and ammuni-

tion"; (*e*) "freedom of communications and of transit and equitable treatment for the commerce" of all nations; (*f*) "matters of international concern for the prevention and control of disease." All these matters are the clear and indisputable business of the United States, and the world will go limping without our active and close cooperation—a cooperation sought for by the League.

The coordination under the direction of the League of international bureaus is optional under Article 24, and contains an arrangement full of promise with no room for opposition.

Article 25—Promotion of Red Cross—is an obligation to which the United States is already pledged.

To sum up what has been said thus far:

1. The preamble of the Covenant expresses in general terms and admirable form that which every loyal citizen of the United States believes his country bound to do whether or not other nations agree.

The purpose of the Covenant is "to promote international cooperation and to achieve international peace and security:

"by the acceptance of obligations not to resort to war,

"by the prescription of open, just and honorable relations between nations,

"by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and

"by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another."

2. Articles 8, 11, 12, 13, 14, 15, 18, 19, 21, 22, 23, 24, 25 contain endeavors to embody what are as truly American ideals as are the Articles of the Constitution of the United States. If America cannot put the principles contained into effect as a member state of the League, it is our inalienable duty to put them into effect either in some wise association with, and acceptable to, the League, e. g. as associate member, or else wholly apart from it. Otherwise the United States is proclaiming ideals without active loyalty to them, a fault that extinguishes ideals.

3. Judging by the invitations to the United States already issued by the League in connection with specific problems, the presumption is that the League would welcome approach to it by the United States in connection with any problems which we might desire to work out with the nations of the League through its machinery, the United States always bearing its proportion of the expense entailed.

III. The generosity of the United States, officially through the Government and privately through its citizens, is unparalleled in history. There is every reason for its continuance. But philanthropy must have a definite philosophy and policy to avoid injury to beneficiaries and to achieve the largest advantage to the recipients of aid.

Opening is given at this moment for establishing new and valuable relationship with both the Far East and the Near East. The opium problem is more than a mere moral problem. It is also economic. The moral cannot be handled without giving due heed to the economic.

Had the moral enthusiasm which swept China almost clean of the poppy between 1907 and 1917 been accompanied by a sympathetic and scientific endeavor on the part of friendly nations to substitute profitable crops for the poppy, China would not have lapsed into her old vice. It is not love of vice which creates the poppy fields. It is the desire for money by a poverty stricken people.

Persia and Turkey are in like plight. The Persian representative at the Assembly of the League said in the Fifth Committee that if the United States would help her to substitute crops that would not deplete the soil but which would be remunerative and serviceable to human need, she could proceed to reduce her poppy areas within the requirements of science and medicine.

The United States which initiated the international narcotic movement should take steps leading to the appointment of technical commissions for the study of conditions in China, Persia and Turkey for the purpose of aiding these countries in the way indicated and providing a market for the silk or such other commodities as would replace the poppy.

This proposal is illustrative, not exhaustive, of a mode of approach which turns philanthropy to the mutual advantage of giver and beneficiary.

IV. Behind all schemes and efforts of whatever sort and however wise for a warless world there should be begun education, national and international, teaching, the young especially, ideals of peace and pitilessly laying bare the absurdity and monstrosity of war. Histories are largely written in terms of war. Until new and better histories are produced, there should be a handbook pre-

pared under Federal direction for universal use in all our schools on the programme of the nation, and of the nations, for peace; the fellowship of the nations of the world; the displacement of war as an arbiter of justice; and the substitute of judicial settlement for its brutal methods. Attempt should be made to secure similar educational measures in other countries.

It is the business of the Church to brand war as sin, just as it is the business of the state to outlaw war as crime. To this end the Churches of the world should enter upon a joint study of war and its moral substitute. War, without reference to its cause or aim, is a wholesale disregard for the unqualified moral injunction, *Thou shalt not kill.* It is the business of the Churches to discover and proclaim with unified voice under what conditions, if any, war is changed from a gross sin and a brutal crime to a Christian virtue and a patriotic glory. But mere pacificism is futile. Accompanying the war upon war there must be the support on the part of the Churches of plans for judicial settlement and the patient building up of good-will and mutual service.

XVIII
NATIONAL COURTS
FOR INTERNATIONAL DISPUTES

BY NATHAN ISAACS

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XVIII

NATIONAL COURTS FOR INTERNATIONAL DISPUTES

I. THE CAUSES OF WAR TODAY AS COMPARED WITH THOSE OF OTHER TIMES

a. The Rise of the Business Element.

No study of the causes of war is sound unless it takes cognizance of the historical perspective that stretches between the merest depredations by one savage tribe on another and the highly complex situations that faced each of the nations concerned in the World War or that faces them today in its aftermath. Even if we limit our historical survey to the short history of European nations as we know them, we must distinguish between the religious motive that was more or less honestly pressed in the middle ages, even when it took the form of asking who was the Anointed of the Lord rather than what the Lord required of men, and the outspoken economic demands of a place in the sun or a sea port, open doors or freedom of the seas and self-determination that showed at least which way the wind was blowing in the World War. Even America's entry into the war was based officially on the disregard of the rights of individual American citizens who wished for private reasons to go down to the sea in ships and do business in the great waters. Many of the troubles of Europe today have simply to do with the collection of debts, whether they

be of the type owed to the French nation for Germany's torts or to French citizens for Russia's repudiated contracts. It is not true that all wars are caused today by business considerations, but it seems obvious that the business motive in international difficulties tends to become a predominant one.

b. The Importance of the Claims of Private Citizens.

What is perhaps more important for our present consideration is the fact that the clashes between nations, whether based strictly on matters of business or on causes of dissatisfaction that can better be classified under some other head, are based today on the claims of private citizens to an extent that was simply unthinkable even a hundred years ago. Mediæval kings sought personal aggrandizement, though of course they held out hopes of personal gain through conquest to their followers. Their successors during the past century sought national aggrandizement that meant a little more directly the increased advantages, generally business advantages, of their subjects. At least so the workings of imperialism were interpreted at the time, whether history writes down this interpretation in the long run as a great illusion or not. Today the clashes of nations are quite frequently over the claims of a handful of citizens who have been interfered with in their ordinary business affairs by foreign governments. A treaty is abrogated because the rights claimed under it for all of one's citizens are denied to some of them by the other party. Bandits in a neighboring state rob or kidnap our citizens who have gone into the other state for business or pleasure, and an international dispute is brewed im-

mediately. Nationals of one country are prevented from holding land in another or their children are excluded from public schools, and the international horizon darkens. Such disputes, when limited to a comparatively small number of men, do not ordinarily lead to war, though of course acts of war and even wars have followed in the wake of such disputes. But it is indisputable that the agitation that leads to a warlike attitude is fed on just such private disputes between the citizens of one country and the government of another.

c. The Increase of Justiciable Elements.

The mere fact that greater stress is laid today in international relations on the claims of private citizens and on claims of a business nature rather than on those of sovereigns and particularly those involving the "national honor," indicates the relative increase of justiciable disputes. But quite aside from the changing nature of the subjects of dispute, the increase in the quantity of well recognized international law, whether made by treaties or developed from other sources, tends to bring old subjects within the range of matters cognizable in a court of judicature. A fisheries dispute originating in a clash of the business interests of the citizens of two countries is one thing in the absence of a treaty and quite another thing if there is a treaty covering the subject ever so vaguely. In the Alabama case legislation by the tribunal had to precede adjudication. Today in a similar dispute one can proceed directly to adjudication without involving the national honor of the litigant state. It is not contended that all elements in international disputes are or ever will be of a type lending

themselves to adjudication by a court. But there is no sharp line between the two types of disputes. And the presence of and easy access to judicial tribunals must tend necessarily to make such dividing line as exists, recede so as to limit the non-justiciable disputes to a smaller and ever smaller area.

d. The Non-Justiciable Elements.

In the last analysis, there are two classes of questions leading to wars that cannot be disposed of by adjudication. One is the type of question for which there is no norm in the practice of nations and no clear analogy in the private law of the several nations. This is the type that adjudication, as distinguished from mere compromise, will tend to decrease. The other is simply the type of question that a nation refuses to leave to any tribunal because of the supposed importance to it of staking everything upon an attempt to achieve one and only one solution. It is inconceivable how war can be prevented between two nations or groups of nations in which feeling has reached this pitch whether with or without reason. What is within the range of reasonable hope is to prevent the development of that state of mind so far as possible by providing a ready outlet for the very beginnings of the difficulty, and by developing a faith among peoples in the disinterestedness and justice of tribunals available for international disputes. It is submitted that what is really dangerous is the intensity of feeling, coupled with the hopelessness of any resort but the resort to arms, rather than any particular type of dispute. The machinery advocated, accordingly, is of the nature of a safety valve, rather than a reinforced container for the steam.

At all events, even if there are two avenues of approach to the pacification of the world, one through force and the other through facilitation of the living together of nations, the specifically American contribution seems more likely to be through peaceful methods. As a matter of fact America has made more than a beginning to its contribution to the peace of the world, and it seems likely to continue in the direction that it has been traveling. That this points towards the plan suggested herein will appear in the historical portions of the following pages.

II. THE NON-SUABILITY OF SOVEREIGNS

a. History and Attempted Justifications of the Doctrine.

By no means the least important American contribution to international thinking has been its exploding, in theory and in practice, of the doctrines of sovereignty that have come down from the days of personal sovereigns who could honestly say, "I am the state." The doctrines themselves still haunt the law books. This one, that the king can do no wrong, as it was stated in the middle ages, or that dishonesty is a royal prerogative, as it is less reverently stated today, achieved a new lease of life in America through the controversy for states' rights. It must be remembered, however, that what gave rise to the Eleventh Amendment was not the interest of the state as opposed to that of the citizen, but the interest of the state as opposed to that of the union. That amendment represents a limiting of the sovereign power of the nation in the interest of semi-sovereigns, rather

than a glorification of the abstract idea of sovereignty. If we turn to the reasons for the rule as summarized in Blackstone's Commentaries (I, 241 ff.), and as they have passed into our legal literature, their inapplicability to modern states becomes apparent. First, there is the proposition that the king is an emperor and therefore, like other emperors, incapable of being summoned to judgment. Here is a veritable ghost of a controversy that meant much in mediæval Europe, but nothing to America or to the other independent states that still live in the family of nations. It has been obsolete since the Holy Roman Empire ceased to exist. The second reason is that jurisdiction implies superiority and that the King's courts cannot be superior to the King. In a country that has made so much of the phrase "*judicium parium*" this argument sounds a little forced. But in view of the separation of powers that has spread from England through America to the whole civilized world, the whole argument is meaningless. Finally, it is said authority to try is vain without authority to redress and sentence. We are not so sure of this proposition today for we have had experience in such courts as the United States Court of Claims and in International Tribunals whose behests have been carried out in detail. Furthermore the greater complexity of modern life and the expansion of the functions of government do not leave us entirely without power of redress in such cases.

b. Inapplicability of the Doctrine Today.

Not only are the eighteenth century arguments unconvincing, but even when they are supplanted by others the doctrine itself seems out of place in the world today.

The nineteenth century arguments stress the implied contract element so far as a foreign sovereign is concerned rather than the idea that a sovereign enjoys a peculiar status. This change is in harmony with the judicial thinking of the century. Thus Chief Justice Marshall argued that it was improbable that a foreign monarch would permit his ship to enter a local port except on the understanding that he would enjoy certain immunities, and that therefore we must take it for granted that he was invited to enjoy the hospitality of the port with an understanding as to his immunity. Before the days of steam-ships, and even during their day before government ownership and operation of the facilities of a huge commerce became so common as it is today, that argument was innocuous. It seemed perhaps a small concession in return for a priceless thing, the good will of princes. In like manner England flatters its Indian princes by dealing with them as independent sovereigns, even if occasionally one dodges a breach of promise suit or a corespondency in divorce by pleading non-suability. But when the doctrine is successfully used to dodge liability on the part of a railroad for its torts, we are reminded of the seventeenth century plea in an action on a bill of exchange to the effect that the drawer was a gentleman and therefore not subject to the law merchant. We might paraphrase Lord Holt's opinion and say that the king who owns a railroad becomes thereby a private citizen. The incongruity of ambassadors engaging in business and claiming personal immunity, of states turning socialistic to engage in all manner of trades and at the very same time repudiating all debts by an application of the

royal prerogative of dishonesty, ought to make us realize that the doctrine does not fit the modern business world. Yet when Russia repudiated its debts our citizens were powerless to touch the vast funds in the hands of the embassy in this country. Instead, we permitted the ambassador to use his funds for propaganda or whatever he saw fit and satisfied ourselves with warlike demonstrations on the soil of Russia that left our bondholders exactly where they had been. Few writers today give the doctrine of non-suability of a state in its own courts their unqualified approval. Why differentiate in favor of foreign states?

c. Its Gradual Degeneration Into a Fiction.

In spite of the fact that eminent American judges have sought to defend the doctrine of non-suability as something more than a formal conception or an obsolete theory, they have welcomed the actual departures from the theory practiced in the United States almost without dissent. Beginning with municipal corporations on their non-governmental side and extending to the United States Government itself in contractual matters, subject of course to the formal need of an appropriation by Congress to satisfy judgments, there has grown up in fact a practice of holding the government responsible to individuals for its acts. In other countries too the process of instituting a claim against the sovereign is simplified, sometimes even to a greater extent than is a lawsuit. A more potent means of control, however, exists in constitutional states through the sanction of nullity. "The King can do no wrong" has reversed its

meaning so that today his attempted wrongs are undone by the court. The Dartmouth College case was not a suit against a state, and yet a state's attempted violation of a contract was reviewed and found ineffective. A suit against an officer who attempts to act under a void statute in America is not a suit against the state, but if we are considering the realities of the case, it might as well be. Likewise when our courts refuse to recognize a so-called foreign judgment as a judgment, or a foreign title (other than royalty) as giving any rights or powers in this country, they are subjecting the foreign official acts to nullification. If non-suability is still a fact, the notion that a state's actions are not passed upon in its own and other courts and that there is no effective execution of these judgments is so clearly erroneous as to render the whole doctrine of non-suability in effect a legal fiction a great part of the time.

d. The Barriers Preventing its Final Removal Heretofore.

If the doctrine of the non-suability of sovereigns is so weak theoretically, if it has been yielding ground in practice, why has it not yielded to the business pressure for an easy means of adjusting private claims against states either in their own or in other courts? Why do we persist in handling all such matters through diplomatic channels and thus imperil the friendliness of nations over the cases of individuals? Why has a whole principle of the constitution of the United States been nullified in favor of what has been described here as an obsolete doctrine? For it can hardly be doubted that the simple meaning of the Second Section of the Third

Article contemplates the answerability of states in the new forum which it plans:

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States and treaties made or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdictions; to controversies to which the United States shall be a party; to controversies between two or more states, between a state and citizens of another state, and between a state, or the citizens thereof, and foreign states, citizens or subjects."

Some of the reasons for the abandonment of this position have already been suggested: the prickly question of states' rights and the desire to develop international good will on any basis that came to hand in such international law as the early judges found. We may add to this the fact that states as such had small financial interests within each other's borders. Perhaps Chief Justice Marshall's description of the terms on which warships visited friendly countries was a fair portrayal of international contacts in his day. In view, however, of the closeness of contact between nation and nation and the vastly greater reliance of each on every other for protection of its own interests and those of its nationals, we must resort to the conservatism of the law for an explanation of the absence of change. More important still has been the absence of any nation in a position to take the initiative with any hope of being followed. The United States is at least in a better position today to take the lead in abolishing this last vestige

of mediæval sovereignty than any other country has ever enjoyed. And the world in general is better prepared for the idea of nations going to court than ever before.

III. COURTS VERSUS SPECIAL INTERNATIONAL TRIBUNALS

a. Ready Access of Courts for Test Cases.

It is true of course that most of the progress of the idea of nations going to court has been connected with special international tribunals and not ordinary courts as suggested here. International courts have certain advantages over ordinary courts, and it must be understood that there is nothing in this plan looking to the scrapping of courts of arbitration or the discouragement of the idea of a world court. On the contrary it may lead, if adopted, to a greater use of such tribunals through accustoming international persons to court action. Provision may be made for review by a world court where several national courts take different views of a subject. Again a process of removal of causes might be developed, similar to that obtaining now between our own state and federal courts. There are, however, several decided advantages that ordinary courts possess over special tribunals as instruments for the peaceful settlement of international disputes. One of these is the readiness with which test cases can be introduced by the individuals affected without waiting for a situation of sufficient seriousness to require the intervention of the political machinery of the state. The state can, if it sees fit, come in as *amicus curiae*. As

matters stand each party to a dispute must press his position to the extreme, and an overt act must be waited for before a matter is brought to an issue. Then it is frequently too late to test the rights of the parties judicially.

b. Prestige of Court Decisions.

It may seem paradoxical to place the prestige of ordinary courts above that of international tribunals. One can readily concede not only the possibility of differences of opinion on this matter, but the likelihood of a great divergence in fact between various times and places as to the manner of accepting judicial decisions. What is important for our purpose is that they are necessarily accepted more as a matter of course than are the decisions of a body suspected of being primarily political rather than judicial. Furthermore courts are more popular, in the sense that they are not so far removed from the parties in interest as are the bodies that must be reached only through carefully guarded diplomatic channels. Finally we have had more or less experience with courts and know as a matter of fact that the chances of obtaining redress through them are, all things considered, rather good. The individual's experiences with diplomatic channels are not likely to be so numerous nor so satisfactory. Stated in another way the courts have a long tradition behind them. Other tribunals are still under the disadvantage from the point of view of popular confidence of being young experiments. The importance of prestige is of course greater in the type of adjudication before us than in ordinary cases. A test case before one of the great courts of the world, it is

believed, would be a more potent factor in the interpretation of a treaty, or in the ascertainment that it was or was not violated, than all the vari-colored books that could be issued by a skilled propaganda bureau.

c. Removal From Atmosphere Calculated to Stir Up Feelings and the Playing of Politics.

The fact of the matter is that nationalistic partisanship is very different from the spirit of litigation. What would be criticised as overzealousness in a litigant passes as praiseworthy in international affairs under the guise of patriotism. The education of peoples to the point of understanding and assuming the position of a litigant seems to require the atmosphere of a court room. The separation of powers has not yet been sufficiently established in international affairs to warrant our hoping that the creation of this atmosphere can be accomplished by any national or international fiat in a new type of tribunal. At least we have in the traditions of established courts the most perfect embodiment of the very spirit we wish to see applied in international controversies. Can it not be utilized?

d. Promotion of International Good Feeling Through Respect for Each Other's Courts.

The court and nation whose administration of justice is complimented by submission to its tribunals of international disputes may be expected to appreciate the honor and seek to deserve it. Yet the intervention of a court does not tend to destroy the aloofness of a nation, which is exceedingly difficult to maintain where the good offices of a neutral are offered and rendered

through political channels. There have been several periods since the World War when the opinion of America as a country free from entanglements would have been accepted by most of the civilized world. Nevertheless the opinion of America as one of a group of bargainers was subjected to endless haggling. The very act of attempting to act as a judge is resented when displayed by one occupying a seat among the litigants. That America asked for nothing and took nothing for itself seems to have been entirely forgotten by our former associates in the War. The equality of nations will not permit one to come forward and act as judge. There is nothing in the theory, however, to prevent a division of function by which one is delegated to judge in a controversy which is not his own, especially when each of the others is capable of furnishing the tribunal in other controversies of a like nature. The service of the judge is emphasized. His supposed superiority is obliterated as the dogma of an old regime when sovereignty was of men and not of laws.

IV. HOW THE UNITED STATES MAKES ITS CONTRIBUTIONS TO INTERNATIONAL LAW

a. Contributions Through Example.

Few writers on international law realize how potent a factor in its development during the last century or more has been the example of the United States. The potency of its example in the matter of disarmament was acknowledged by the world during the Washington Conference. But its tradition goes back to the Great Lakes treaty of over a century ago. America has been

a pioneer in the recognition of the duties as well as the rights of neutrals as embodied in the Neutrality Act of 1794; in the recognition of international law and treaties as part of the law of the land from the days of the Constitution itself; in the attempt to prevent sudden wars as in its dealing with the Barbary States, 1796-1797; in working with Boundary Commissions and Prize Commissions, 1794; in arbitration treaties such as that with Tripoli in 1796 and Mexico in 1848; in international administration and neutralization of territory and of rivers and in the open door policy for lands that Europe had been in the habit of staking off for exploitation; in asserting the freedom of expatriation and naturalization; and in submitting to private law to a greater degree than the traditional theories of sovereignty warranted. In some of these instances perhaps it should be described as standing alone rather than as a pioneer leading the way for others. But even if we take the extreme case of unprecedented altruism, its conduct toward Cuba, there is reason to hope that the time will come when that precedent will be followed by nations that are now accepting mandates. The very idea of a mandate presupposes the acceptance of our theory of the relations of the stronger to the weaker nations. Whatever contribution America may make toward achieving and preserving the peace of the world must, if history is to be heeded at all, be bestowed in large measure in the form of an example. If we want others to yield in a measure to the adjudication of claims against them, we must yield in the fullest measure to the adjudication of the claims that are made against us.

b. Contributions by Treaty and International Conferences.

It may not be quite fair to attribute to the initiative and example of America those international ideas that find their first expression in a treaty: it takes two to make a treaty. Certainly the Great Lakes disarmament and the adjustment of disputes with British America are Anglo-American rather than American contributions. In several of the treaties with weaker states, however, American initiative has been a little more clearly discernible. It has also fallen to the lot of America to be a more nearly disinterested person than were the European states in the making of group treaties and at conferences. The Samoan agreement of 1889 was an early example. The part played at Versailles and later at the Washington Conference was even more marked by aloofness in fact though not in form, and the ideas formulated in each case were largely those injected by Americans. That America will continue to occupy such a position for a considerable time seems likely, both because the trend of the post-war European disputes seems to involve us less and less directly, and because the attitude of our people seems to have formulated itself against the surrender of the advantages of complete political independence. America will thus be in an ideal position to suggest much that will go down into the treaties of the twentieth century as the heritage from the period of adjustment in the midst of which we find ourselves. Every American tradition points towards the probability that this advantage will be used in reading into these treaties the freest possible submission to litigation.

c. Contributions by Proclamation of Principle.

Occasionally America has announced a policy to the world in a threatening tone. The War of 1812, the "second war of Independence" may perhaps be attributed to the necessity of backing up some of these declarations with arms. But since America has been reckoned among the powers it has never been called upon to fight for its deliberately propounded principles. So far no war has been fought over the Monroe Doctrine. On the contrary, where the principle laid down recommended itself to the good sense of other nations they have reiterated our declarations with or without acknowledgment of the source. An excellent example is in Dr. Lieber's rules of warfare drawn up for the United States Army, and embodied, at least so far as the rights of non-combatants are concerned, in high-sounding phrases by the countries of Europe in their war-manuals and in the Geneva (1906) and Hague Conventions (1899 and 1907). Many of the proclamations of the United States that have won the widest recognition pertain to the rights of individuals as against nations: the freedom of neutral vessels to navigate, the doctrine of effective blockade, the right of expatriation, the rights of non-combatants. The proclamation of principle here advocated is but the climax of the series, the answerability of governments to individuals in courts of judicature.

d. By Statutory and Other Development of its Local Law.

If, however, one method is to be singled out through which America has added to the peace of the world more than through any other, it will not differ from the

method by which each citizen contributes to the peace of his country—by being peaceful. We have prevented the launching of warlike acts or expeditions against other nations from these shores since the affair of Citizen Genet. We have eliminated forceful self-help from our municipal law and have taught our people to have faith in peaceful adjudication. We have stamped out the duel and the vendetta and the false code of honor that goes with them—and with war. We have established equality before the law. And above all we have gone farther than other people in holding the highest as well as the lowest amenable to the law. We have not exempted officers. We have made progress toward removing the exemptions of the state. The completion of that task will set our own house in order and remove the last possible justification for anybody with a real or imaginary grievance against us ever declaring war upon us.

XIX
EDUCATION FOR PEACE

BY PAUL H. ARTHUR

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XIX

EDUCATION FOR PEACE

The peoples of the world today, in their group relationships, are ruled by certain conceptions as to the nature and purposes of states and by certain national and racial prejudices. It is believed that these conceptions and these prejudices constitute at present the greatest obstacle to our progress towards international peace, and that until they are substantially eliminated no machinery can be set up that would effectively preserve the international security. The plan here presented is based, fundamentally, on this belief.

Human society is at present organized into separate, independent "nations" or states. Each state is planted upon a portion of the earth's surface, and each is "sovereign" over all persons and things within its boundaries. Some nations are small; others are very large. Some are rich in the products which all people (of whatever nation) require; others are poor. Yet each is the selfish owner of all the resources of the earth within its proclaimed domain and undisputed dictator as to the distribution of those resources among the world's peoples. The economic pressure within individual nations, and pressure from without, as well, arising from this system of organization—from the abundance within one set of boundaries of certain of the world's necessaries and the scarcity of them within other sets of boundaries—has created international

rivalry and has led to constant jockeying for position and often has resulted in wars.

Such rivalry among nations is made possible by modern notions, especially strong among peoples influenced by Western concepts, as to the nature and functions of states. From the era of the absolutism of individual monarchs we have inherited our ideas as to the nature of sovereignty.* Jean Bodin, in providing his prince with the attributes of *majestas,* established also the basis of all modern theories as to the nature of the state. The state has succeeded to the rights of the human sovereign over the persons and property within his former domain. It is not thought that the modern "nation" with its often arbitrary boundaries is only a government, and that the primary function of government should be to regulate the dealings and relations of the people one with another. No, the state is a sovereign, free and independent, and bound to take its place as such among the other sovereign powers in the "society of nations." As such a sovereign, the nation is thought to have the moral duty of guarding its people in their possessions and of protecting them from the aggression of "outsiders"—that is, of other countries or their peoples. Indeed the duty goes deeper; each state is obliged to squat upon the whole of such portion of the earth's surface as it can cover and seize for its own all of Nature's bounty that happens to be found there and to withhold it from those of Nature's children who chance to reside within the limits of other nations until

*See Merriam, "History of the Theory of Sovereignty Since Rousseau," Studies in History, Economics and Public Law, Vol. XII, No. 4, pp. 11-232, (Columbia Univ. Press, 1900).

its own people have satisfied their desires or exacted their due.

In this system of organization there is no competent power or body to promote the welfare of the world. Everywhere, always, the interests of a part are furthered with no regard for the interests of the world as a whole.

The notion of the sovereignty of nations is a political concept. Perhaps it serves a useful purpose in the law and for that should be preserved. But only misery comes of the encrustation which has been formed upon it in the mind of the common man; by which is meant those further conceptions as to the duties and prerogatives of each such sovereignty and as to its relations with other sovereignties.

But to these conceptions is added in common thought a stranger fiction. The nation is endowed with personality; it is exalted and revered as something higher and better than human. Mr. H. G. Wells has written that in many minds it has taken the place of the Deity. This conception of the nation as having personality has permitted the growth of a deep feeling which inspires man to do noble deeds on behalf of his country. The sentiment has indeed all the power of religious fervor. Patriotism, once aroused, senses no restraint and sweeps all before it. It has fired rational men to subscribe to the toast: My country, may she ever be right; but, right or wrong, My Country!—and zealously to give their blood for that country. It can stir good men to bitter hatred of the people of other nations. It can lead peaceable men to the utmost violence and to the most fanatic destruction. Knowing no reason, taking no

counsel, it is often misdirected. Its influence upon men permits war and the recurrence of war.

The purposes which this spirit may serve in such a society of independent states are realized, and devices have been set up to preserve and encourage it. The flag has been produced as a symbol of the national greatness. It is the subject of deep awe and reverence. It is saluted in procession with grave respect, and its brandishment will, on proper occasions, stir the deepest emotions. Laws are passed to prevent its desecration. If an "alien" dare touch it disrespectfully, punishment is swift and severe. The flag has supplanted ancient idols in the minds and hearts of modern men.

Nations have anthems, too, which touch the hearts of their peoples. They are sacred hymns; men uncover as they are sung, and he who does not show his reverence is likely to receive rude treatment.

Of course, the sovereign nation with personality has attributes belonging to the person—to the royal person, if you please. The state has a very high and delicate honor to uphold. A nation may be insulted, and much more readily than one would suppose. And its sovereignty requires that prompt recompense be rendered for insults. States have not emerged from the age of chivalry. In such an epoch, might makes right. An aggressive nation invades the territory of a weaker adversary, which it declares it will hold until the culprit performs its international duty. That is "seizing a guarantee." The offender is ordered to salute the flag of the injured one; the cabinet of the erring sovereignty, by command, attends the funeral of the victims of its error (while provision for their families may await years

of the unwinding of "red tape"). Thus is honor vindicated. A "Conference of Ambassadors" of the "principal powers" uses its influence to accomplish such a settlement. It is the conventional mode. Throughout the proceedings other nations are advised that it is an affair of honor and warned not to interfere, and it is announced that since the sovereign honor is involved the new League of Nations has no jurisdiction, and that if it attempts to take any action the offended country will withdraw from its membership in the League. Nor has any international court jurisdiction over any matter affecting the honor of a nation. It should be understood, too, that only the state offended may determine whether its honor is jeopardized. Under such a system the demands made by one state upon another and the satisfaction gained are very often precisely those of the bully.

It is obvious that dealings among such states may become quite complicated. For this reason nations have developed the "foreign office" to conduct their relations one with another. The foreign office houses the experts in the question as to what constitutes national honor, and as to the proper conduct for sovereign states, and as to the approved ways and means of keeping the state in a forward position in the keenly contested international race. These experts are the diplomats.

It need hardly be said that this system of organization, being ordered as it is by these conceptions as to its functioning, makes of the world a tinder box. Human society cannot be sure that it will not destroy itself so long as people continue to believe that the system must be worked in accordance with these conceptions.

But the danger arising from this state of affairs is intensified by national and racial prejudices. Man has an instinctive pride in his community and his people. Conceiving of his country as having personality, the modern citizen or subject has a national pride stronger than was ever known before. The correlative of pride in one's country is indifference to the merits and qualities of other countries and their people, prejudice against them and often bitter hatred of them. Differences in language and in traditions and in natural reactions among the peoples of different countries and ignorance on all hands as to these differences make for the creation of prejudices. The character of dealings between governments, acts of aggression, bullying, and wars often perpetuate and deepen them. Feeling is heightened by racial suspicion and repulsion. Thus an international tension may prevail constituting an ever-present menace to peace, and it may be based upon ignorance and misunderstanding.

Such conceptions of the nature and functions of states fused with such national and racial prejudices blend into an international state of mind which on occasion bursts into destructive passion. So long as such passion is possible peace is impossible. No amount of international machinery that may be set up in such an environment will suffice to prevent war. Passion, of a force with which we were so recently made acquainted, would sweep it aside. No scheme which does not contemplate a change in this state of mind can long survive.

What can be done to change this condition of affairs? We of this day can only *begin* the change. But how may we begin?

No plan need propose the immediate elimination of the existing organization of the world into separate states. The day is far distant when such a proposal could be considered practicable or such a change desirable. Nor can the earth's resources be reapportioned so that economic rivalry may be lessened. But false and dangerous notions can be changed, and for the sake of human society they ought to be changed.

Huxley said that his purpose in life had been to promote the increase of natural knowledge and to forward the application of scientific methods of investigation to all problems of life, in the conviction, which grew as he lived, "that there is no alleviation for the sufferings of mankind except veracity of thought and of action, and the resolute facing of the world as it is when the garment of make-believe by which pious hands have hidden its uglier features is stripped off." Why cannot the method of the biologist-educator be applied to the problem of furthering peace among nations? Why should not the garment of make-believe, with which a not always pious diplomacy has clothed the world, be stripped off to expose the uglier features of sham sovereignty, false national pride, national rivalry, ignorance and prejudice?

All the great religions of the world have taught that happiness is dependent upon belief in the brotherhood of man. The vast majority of the peoples of the earth today profess this belief. But these peoples in their group intercourse do not put this profession into practice. Why cannot the acknowledged principle of the brotherhood of mankind be applied by nations in their dealings with one another? Why can we not teach ourselves to realize that in this world there is abundance,

and happiness, for all nations if only its wealth is sought and obtained and divided in a spirit of co-operation and helpfulness; and that jealous national hoarding or wild scrambling for possession can only bring the hopeless misery that is always caused by selfishness trampling upon want? Why can we not be brought to understand that after all we are one people, by and large the same, and that our governments are set up in different parts of the world for convenience of self-regulation, and that when one of them brings force of arms to bear against another it is only injuring our brothers in another land? Can we not be led to cease to tolerate the idea that the sovereign nation in furthering the interests of its members must sink to the rôle of the dog in the manger? Can we not show ourselves how hollow is our thought of country as a semi-divine personality? Will we not then see how primitive and childish it is to think of the impersonal machines we have set up to serve our social needs as having *honor?* Will we not then see the *danger* in current conceptions, and in flag-waving, and the utter futility of it all? Can we not among ourselves clear up our misunderstandings, undermine our prejudices against one another and come to a better appreciation of the traditions, characteristics and merits of our various groups?

The argument is that we *can* do all these things. Exposition has been offered to show that the whole system of international relationships is based upon false conceptions as to the nature and functions of governments, and that these conceptions make quarrels of those relationships; and that the danger in this system is heightened by national and racial prejudices. These con-

ceptions make fictions of fundamentals. Fictions exist only in the mind. Prejudice is ignorance. The whole system, therefore, is founded upon *a state of mind.*

Now the only way to affect a state of mind is by some kind of education. Education may come of experience of course. The Great War was thought to be a "war to end war" and it was hoped that the experience in that conflict would carry us a great stride away from the possibility of future war. But the peace has brought disillusionment, and now we know that the world learned little from that experience. It seems as if the world *can* learn little by such experience. If we are to have education to destroy the fictions that entrap us and to dissipate our prejudices, that education must be deliberately planned and deliberately administered.

It is obvious that no state, alone, would dare permit the introduction of a program of education designed to soften the national pride. In the existing order, such a step would endanger the national integrity. If an educational program is to be adopted as the first step towards universal peace, it must be accepted by all nations so that its effect will be felt by all.

The plan, therefore, calls for the immediate establishment of an international bureau of education whose functions shall be to engage in continuous study of the problems relating to the preservation of peace and to exercise such power of influencing the education of the peoples of the world as the nations may be willing to grant to it.

It is proposed that the President of the United States should invite the governments of the world to participate in a conference on the subject of international education. No doubt informal inquiries should first be made to learn what would be the response to such an invitation. And in view of the attitude towards foreign affairs lately assumed by the Senate, precaution would seem to dictate that the approval of that body should be obtained before the issuance of invitations to such a conference. Indeed it might be well to seek appropriate resolutions in both houses of Congress before any formal step is taken by the Executive. These are practical considerations as to the proper method of bringing about the desired end, which is the establishment of an international body endowed with all the strength that can be obtained for it.

It would be necessary for the Secretary of State in his preliminary inquiries to make tentative statements as to the constitution of the suggested bureau, as to the functions to be proposed for it and as to the objects which it would be expected to accomplish. The proposal would be thoroughly aired in the Congress, too, if resolutions were offered touching upon the invitation to the conference. It is desirable, therefore, to consider the possible make-up and workings of such an international body.

We do not need to say how many members the bureau should have or how they should be chosen. Those are matters which may be decided upon after deliberate consideration by the conference. The more difficult of the questions, no doubt, is that as to the method of selection. Perhaps some scheme like that fixed upon for the elec-

tion of the judges of the Permanent Court of International Justice should be adopted.

More important is the question as to the character of the persons selected. A high precedent should be established at the outset. Men and women of the very highest caliber should be placed upon the board. They should include not only educators but persons learned in many different fields: science, religion, history, philosophy, literature, law and administration. Immediately it should become the very highest distinction to be chosen for membership in the bureau. Every effort should be exerted and every influence brought to bear in the conference and at the inauguration of its plan to procure the best possible personnel for the bureau. Its success might depend upon that.

The bureau should be well endowed with money, and its needs should be supplied without stint, so that it could carry out its program on a scale and in a manner never previously dreamed of in the history of education.

The first work of the body would be almost wholly in research. Its members should study the forces that make for war as they have never been studied before—and with the tenacity and thoroughness and vision of learned men. To do this it is obvious that the board would require branches in all parts of the world. All nations should be bound to lend its members and the members of its staff every assistance and encouragement. This initial investigation might require many years; and continuous research would always be essential to the functioning of the bureau. The bureau would study

and interpret the traditions, aspirations, habits and proclivities of all peoples; their political, social and religious institutions, and their history; and would examine into their general level of culture and intelligence, their knowledge of the institutions and traditions of other peoples, and their systems of education and their reactions thereto; it would consider the effect of their physical environment and their position economically upon their thoughts and desires; and would do all else that would give it an insight into, and an understanding of, the forces that shape the thought and conduct of peoples.

Upon the completion of its preparatory research the bureau would formulate its program of remedies.

It is here that the extent of its power would become so important. If it should have merely the function of publishing its findings, its work would only serve to expose the weakness and vice of some nations and the advantages of others and would stir up bitterness and animosity. A body with barely that power had best be left unborn. If it should have only the prerogative of recommending action to the different states, its influence would be but slowly felt. Opposition would be too easy. With such limited power, the bureau would lack the characteristics of affirmativeness and aggressiveness that would make its work so valuable and spread its influence throughout the world so fast.

If the first step in any program to achieve peace among nations is properly directed education of the peoples of the world, then the ideal international bureau of education should have full power to control and regulate education in all nations. In such a position it could serve

its purpose with greatest potency. But perhaps we cannot hope soon to achieve such an ideal. Besides the prejudice and fears that would be aroused by such a proposal, many practical difficulties of a legal, social and religious nature would be met. For the present we should content ourselves with striving to obtain for the bureau as much authority as reluctant states will yield, in the hope that the prejudices against greater power will eventually be dispelled, the practical difficulties overcome and the bureau finally come into its own.

The nature of the bureau's positive work would depend upon the extent of the authority obtained for it. We can only speculate, therefore, upon what it would do, and perhaps consider what we should like to have it do. If its power were adequate its function would be to proceed to eliminate the evil influences which its research might disclose in the various countries of the earth. In carrying out this duty it would have at its command the educational system of each country, and it would be free to mould and shape the system and the entire educational program exactly to fit its purpose.

With such authority, is there any one to doubt the efficacy of its work? Some one has said that if he could control the schools of his country he would not care who made the laws. The members of that great missionary order of the Roman Catholic Church, the Society of Jesus, the Jesuits, are said to be indifferent as to what influences are subsequently brought to bear upon the child, so long as they may have him in charge during the first years of his life. It is hardly possible to appreciate how great would be the force exercised in the

world by such an agency for the propagation of ideas as is proposed.

> "'Tis education forms the common mind;
> Just as the twig is bent the tree's inclined."

It would be useless to try to influence the present inhabitants of the earth to alter their conceptions as to proper statecraft or to drop their prejudices. The process suggested is slower than any which could change the mental habits of the world in a day. It must be applied to the children and their children and children's children. It is a process of evolution rather than of revolution.

It is impossible in the space at command even to suggest the various influences which the bureau might have upon the world. No doubt one of its first efforts would be towards bringing about a change in the common method of teaching history, so that the child should learn to measure the importance of events solely by their effect upon the progress of all the world. But there is apparent no reason why eventually the bureau should not come to influence the teaching of all branches of human knowledge. If the masses of all civilized countries should come to understand the great principles of science and to apply the scientific method in all their thinking, and if they should come to appreciate the significance of history as the story of the development of human society, their false conceptions and their prejudices would slowly atrophy. Therefore we might wish to see such a bureau as is proposed become a great agency for the dissemination of knowledge throughout the world so that all peoples should be taught the best

of what all the world has learned. And not only could the bureau teach, but it could everywhere aid and encourage scientific and scholastic investigation, it could provide standards for scholastic attainment and make of itself a great clearing house of knowledge for all the earth.

What the results of such world training would be can not definitely be foretold, nor can we guess what the peoples of the future would choose as the next step towards securing peace among nations. It may be that the work of such a bureau would prepare the world for the institution of some kind of federation of nations. The remarkable development in the means of rapid communication and transportation and the extension of agencies for the spreading of news are fast making it mechanically possible to have some centralization of the government of the world. Our prejudices and our conceptions as to the destined place of nations in human society remain the chief obstacle to such a change.

It may be objected that this plan is not comprehensive and that it gives no assurance of preventing war. Let it be repeated that the plan is not submitted as a direct means of ending war. The proposal is made in the belief that *no* machinery can be set up in our present state of progress that will bring about universal peace. The theme is simply that today we can only strive to hasten the advance towards that condition of society where some arrangement among nations *can* be made effectively to lessen the danger of the occurrence of war, and that the essential first step is to undertake the education of the civilized peoples of the world with the view of elevating them to that condition. The peoples of the

future, when they have reached the desired plane, will make the arrangement for the government of their group relationships appealing to their enlightened judgment as best suited to the purpose.

In this connection it should be said that the establishment of the League of Nations is not believed to have solved the problem. The League is based upon the present order. It is a meeting place of diplomats, a school for foreign offices. In giving representation to nations as sovereign powers, its constitution makes no suggestion as to a change in the conceptions of the *attributes* of sovereign powers. It was apparently not thought fundamental that the international state of mind of which we speak should be affected, for the Covenant contains no provision concerning education. The League has its roots in that state of mind and derives its life from it.

Nevertheless, the League of Nations should not be abandoned. Indeed there should be no objection to setting up the proposed bureau of education in some connection with the League (in fact Article 24 of the Covenant might be construed to require the members of the League to establish such a connection) were it not that the feeling against that body which prevails in the United States might jeopardize the chance of the adoption of the plan and hinder the work of the bureau if the plan should be adopted. The League is well devised under present conditions to serve its aims. With the gradual change in the mental attitude of peoples which would be consequent upon the work of the bureau, the League either would become a useless appendage and be displaced by some more effective organ or would

itself evolve into a supremely serviceable agency for protecting society from the dangers of war.

Further questions suggest themselves but may be only briefly touched upon because of lack of space for fuller discussion. Consideration has been given simply to the thought and action of the peoples of Western culture or those impregnated with Western ideas. No mention has been made of the great stagnant masses of the East. Perhaps excuse for that may be found in the fact that the immediate destiny of the world seems to depend not upon the peoples of purely Eastern culture but rather upon those whose conduct is governed by the conceptions and ambitions of Western civilization. It is apparent, too, that the work of the proposed bureau would influence Eastern peoples as well as Western. The bureau would be expected also to give special attention to the question as to the effect of religious faith upon world stability. Both the conference and the bureau would have to consider the menace of Bolshevism and its effect upon the working of the plan. Objection may be made that even although the work of the bureau may be effective upon the minds of individuals throughout the world it may not be strong enough to influence group thought and action. This the bureau would have to consider in the light of advancing knowledge of human psychology. Nothing has been said, either, concerning the uncivilized peoples of the earth or the turbulent hybrids in such places as Latin America. Of course, the savage cannot be converted at once into a civilized being by education, nor will that treatment reform the degenerate. But disturbances among such

peoples are not primary causes of war. It is chiefly the competition of healthy, civilized states in their aggression against these peoples that creates serious conflict, and it is precisely this competition which the plan proposed would affect. Some policing of backward territories may always be necessary. The lately established Mandates Commission has already undertaken the slow task of elevating the primitive peoples of the earth. The direction of this work might well be transferred to the proposed bureau.

Of course, the plan must be acceptable to persons living in the present condition of affairs who have fed upon excessive nationalism and have been drilled in bias against nations and races other than their own. Opposition may be expected. The demagogue in our country will cry that a "super-state" will be the end of it. It will be said that we do not wish to become more intimate with the yellow man and the red and the black, and that we do not wish to become entangled in the affairs of other nations of whites. Such objections arise from the very state of mind which we seek to change. Our answer is that it is desired only that we *understand* the peoples of other races and other nations better and that it is for those who come after us, in the exercise of a liberated intelligence and in the light of a better understanding of their fellows, to decide how close the inter-racial and international relationships shall be. Those who would prevent our descendants from obtaining a truer appreciation of one another must confess to a narrow-mindedness and bigotry which would make impossible the development of the world towards that universal accord among nations for which all men long.

The United States today is a nation of people happy

in a community of spirit and mutual understanding. Yet in its beginnings there was not such happiness. When independence was achieved there were thirteen jealous sovereign states. It is familiar history that under the Articles of Confederation interstate relationships became chaotic. Interference by one state with intersectional commerce and navigation stirred injured neighboring states to bitter reprisal, and life in such a union grew intolerable. New York City engaged in a mortal struggle for commercial supremacy with Philadelphia on the one hand and Boston on the other, and it became a common saying among the citizens both of Connecticut and of New Jersey that they lay "between the hawk and the buzzard." The official disposition was reflected in the attitude of the citizens. Suspicion and ill humor were prevalent. In 1760 Lewis Morris, of New York, father of Gouverneur Morris, in preparing his will, expressed the desire that his son should have "the best education that is to be had in Europe or America, but," he said, "my express will and directions are that he be never sent for that purpose to the Colony of Connecticut lest he should imbibe in his youth that low craft and cunning so incident to the People of that Colony which is so interwoven in their Constitutions that all their art cannot disguise it from the World, although many of them, under the sanctified garb of Religion, have endeavored to impose themselves on the world as honest men." It appears clear to us today that the trouble here was either ignorance of the people of a neighboring community or an unwillingness to understand them.

Thus the people of the United States began their history in jealous sectional strife. Instead of being counted merely units in the government of a common people, the

states were thought to be unimpeachable sovereigns, with all the prerogatives and duties appertaining to such entities. Inspired by such a conception, each state assiduously prosecuted the selfish interests of its citizens to the direct disadvantage of the people of neighboring commonwealths. This ill-omened condition of affairs was aggravated by a lack of common understanding between communities and by positive intersectional prejudice and bitterness. Had such conceptions as to the functioning of the states and such ignorance and prejudice persisted, the United States could never have endured. Fortunately, forehanded men were not lacking to eliminate the weaknesses in the government, and improvement in the means of travel and communication and the development of common institutions brought better mutual understanding, and today we are a great and happy nation.

Let this example be a guide to our aspirations. We do not now seem to have such control of our destiny as will permit us to grip the government of our international relationships; but we can make for ourselves the instrument which shall break down false and unnecessary conceptions of statecraft and dissolve ignorant prejudices and which shall instill new strength into the spirit of brotherly love and forge a new bond of mutual understanding among the peoples of the earth, so that those who come after us may take up new materials and with them set their house in order. Let not our bias of today sway us to deny to those of tomorrow the heritage we can give them.

XX

THE WINNING PLAN

PROGRESSIVE COOPERATION WITH THE ORGANIZED WORLD, SUSTAINED BY THE MORAL FORCE OF PUBLIC OPINION AND BY DEVELOPING LAW

By CHARLES HERBERT LEVERMORE

Charles Herbert Levermore has long been a student of international relations, and has published a number of studies upon the general subject. He was an instructor in the University of California, Professor of History in the Massachusetts Institute of Technology, and President of Adelphi College, Brooklyn, for nineteen years, until 1912. He has been director of the College and University Bureau of the World Peace Foundation, and has been connected with the World Court League and the League of Nations Union. Since 1917 he has been Secretary of the New York Peace Society. His published works include: "The Republic of New Haven," published by Johns Hopkins University; "Forerunners and Competitors of the Pilgrims and Puritans"; and a series of year-books on the League of Nations, chronicling the achievement of the League in each twelve months of its existence.

XX

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PROGRESSIVE CO-OPERATION WITH THE ORGANIZED WORLD SUSTAINED BY THE MORAL FORCE OF PUBLIC OPINION AND BY DEVELOPING LAW

Five-sixths of all nations, including about four-fifths of mankind, have already created a world organization, the purpose of which is "to promote international cooperation and to achieve international peace and security."

Those nations cannot and will not abandon this system, which has now been actively operating for three and a half years. If leading members of the United States Government ever had serious hopes that another association of nations could be formed, such hopes were dispelled during the Washington Conference by plain intimations from other Powers that there is not room for more than one organization like the League of Nations.

The States outside the organized world are not of such a character that the United States could hopefully cooperate with them for the purpose named.

Therefore, the only possible path to cooperation in which the United States can take an increasing share is that which leads toward some form of agreement with the world as now organized, called the League of Nations.

By sheer force of social international gravitation such cooperation becomes inevitable.

THE UNITED STATES HAS ALREADY GONE FAR IN COOPERATION WITH THE LEAGUE OF NATIONS.

The United States Government, theoretically maintaining a policy of isolation, has actually gone far, since March 4, 1921, toward "cooperation with other nations to achieve and preserve the peace of the world."

The most familiar part of the story is the work of the Washington Conference, wherein President Harding's Administration made a beginning of naval disarmament, opened to China a prospect of rehabilitation and joined with Great Britain, Japan and France to make the Pacific Ocean worthy of its name.

Later came the recommendation that the United States should adhere to the Permanent Court of International Justice.

Not long after that action President Harding wrote to Bishop Gailor:

"I do not believe any man can confront the responsibility of a President of the United States and yet adhere to the idea that it is possible for our country to maintain an attitude of isolation and aloofness in the world."

But since the proposed adhesion to the Permanent Court would bring this country into close contact at one time and point with the League of Nations, and since such action is strenuously opposed for exactly that reason, it is pertinent to inquire not only how much cooperation with the League and its organs has been proposed during the life of the present Administration, but also how much has been actually begun.

The United States Government has accredited its representatives to sit as members "in an unofficial and

consulting capacity" upon four of the most important social welfare commissions of the League, viz.: Health, Opium, Traffic in Women and Children, and Anthrax (Industrial Hygiene).

Our Government is a full member of the International Hydrographic Bureau, an organ of the League. Our Government was represented by an "unofficial" observer in the Brussels Conference (Finance and Economic Commission) in 1920. It sent Hon. Stephen G. Porter and Bishop Brent to represent it at the meeting of the Opium Commission last May.

Our Public Health Service has taken part in the Serological Congresses of the Epidemics Commission and has helped in the experimental work for the standardization of serums.

Our Government collaborates with the League Health Organization through the International Office of Public Health at Paris, and with the Agriculture Committee of the League Labor Organization through the International Institute of Agriculture at Rome.

In February, 1923, Secretary Hughes and President Harding formally recommended that the Senate approve our adhesion to the Permanent Court under four conditions or reservations, one of which was that the United States should officially participate in the election of judges by the Assembly and Council of the League, sitting as electoral colleges for that purpose.

Unofficial cooperation from the United States with the work of the League includes membership in five of the social welfare commissions or committees of the League, in one on economic reconstruction, and in one (Aaland Islands) which averted a war. American women serve

as expert Assessors upon the Opium and Traffic in Women Commissions.

Two philanthropic agencies in the United States have between them pledged more than $400,000 to support either the work of the Epidemics Commission or the League inquiry into conditions of the traffic in women and children.

The United States being already so far committed to united counsels with League agencies for the common social welfare, all of which have some bearing upon the preservation of world peace, the question before us may take this form:

How can increasing cooperation between the United States and the organized world for the promotion of peace and security be assured, in forms acceptable to the people of the United States and hopefully practicable?

THE UNITED STATES CAN EXTEND ITS PRESENT COOPERATION WITH THE LEAGUE'S SOCIAL WELFARE ACTIVITIES.

Without any change in its present policy, already described, the United States Government could, first, show its willingness to cooperate similarly with the other humane and reconstructive agencies of the League. To four of these agencies that Government has already sent delegates with advisory powers. It could as properly accept invitations to accredit members with like powers to each one of the other welfare commissions. It has already received invitations from two of the latter.

It is, secondly, immediately practicable to extend the same kind of cooperation, whenever asked to do it, so as to include participation in the work of the commis-

sions and technical committees of the Labor Organization. The record shows that such cooperation is already begun.

The single common purpose of all these committees is the collection and study of information, on which may be based subsequent recommendations for national legislation.

All conventions and resolutions, recommended by the first three congresses of the International Labor Organization, have already been laid before the Senate of the United States and, without objection, referred to the appropriate committee. No different procedure would have been followed if the United States were a member of the Labor Organization of the League.

An immediate step is adherence to the Permanent Court.

An immediately practicable step is, thirdly, the Senate's approval of the proposal that the United States adhere to the Permanent Court of International Justice for the reasons and under the conditions stated by Secretary Hughes and President Harding in February, 1923.

These three suggestions for increasing cooperation with the family of nations are in harmony with policies already adopted by our Government, and in the last case with a policy so old and well recognized that it may now be called traditional.

They do not involve a question of membership in the League of Nations as now constituted, but it cannot be denied that they lead to the threshold of that question. Any further step toward cooperation must confront the

problem of direct relations between the United States and the Assembly and Council of fifty-four nations in the League.*

In actual operation the League employs no physical force.

The practical experience of the League during its first three and a half years of life has not only wrought out, in a group of precedents, the beginnings of what might be called the constitutional law of the League, but it has also shifted the emphasis in activities of the League and foreshadowed important modifications in its constitution, the Covenant.

At its birth the Covenant of the League bore, vaguely in Article X and more clearly in Article XVI, the impression of a general agreement to enforce and coerce. Both of those Articles suggest the action of a world State which never existed and does not now exist. How far the present League is actually removed from functioning as such a State is sufficiently exhibited in its dealings with Lithuania and Poland over Vilna and their common boundary, and with Greece and Italy over Corfu.

Experience in the last three years has demonstrated probably insuperable difficulties in the way of fulfilling in all parts of the world the large promise of Article X in respect to either its letter or its spirit. No one now expects the League Council to try to summon armies and fleets, since it utterly failed to obtain even an international police force for the Vilna district.

*Fifty-seven States, including Germany, are members of the International Labor Organization of the League. There are about sixty-five independent States in the world.

Each Assembly of the League has witnessed vigorous efforts to interpret and modify Article X. In the Fourth Assembly an attempt to adopt an interpretation of that Article in essential agreement with the Senatorial reservation on the same subject in 1920 was blocked only by a small group of weak States like Persia and Panama, which evidently attributed to Article X a protective power that it possesses only on paper.

Such States, in possible fear of unfriendly neighbors, must decide whether the preservation of a form of words in the Covenant is more vital to their peace and security, and to the peace and security of the world, than the presence of the United States at the council table of the family of nations.

As to Article XVI, the Council of the League created a Blockade Commission which worked for two years to determine how the "economic weapon" of the League could be efficiently used and uniformly applied. The Commission failed to discover any obligatory procedure that weaker Powers would dare to accept. It was finally agreed that each State must decide for itself whether a breach of the Covenant has been committed.

The Second Assembly adopted a radically amended form of Article XVI from which was removed all reference to the possibility of employing military force, and in which the abandonment of uniform obligation was directly provided for. The British Government has since proposed to weaken the form of requirement still further.

Articles X and XVI, in their original forms, have therefore been practically condemned by the principal organs of the League and are today reduced to something

like innocuous desuetude. The only kind of compulsion which nations can freely engage to apply to each other in the name of Peace is that which arises from conference, from moral judgment, from full publicity, and from the power of public opinion.

The leadership of the United States in the new world is obviously recognized by the League.

Another significant development in the constitutional practice of the League is the unwillingness of the League Council to intervene in any American controversy, even though all States in the New World except three are members of the League.

This refusal became evident in the Panama-Costa Rica dispute in 1921 and in the quarrel between Chile, Peru, and Bolivia, a quarrel which impelled the last two States to absent themselves from the Third Assembly, wherein a Chilean was chosen to preside.

Obviously the League intends to recognize the leadership of the United States in the New World precisely as the United States claims it. This is nothing less than the observance of an unwritten law limiting the powers and duties of the League Council, defined in Article XI of the Covenant, to questions that seem to threaten the peace of the Old World. When the United States is willing to bring the two halves of the world together for friendly consideration of common dangers, duties and needs, it will be possible to secure, if it is desired, closer cooperation between the League organizations and the Pan American Union, already a potential regional league. It is conceivable that the family of nations may

eventually clearly define certain powers and duties of relatively local significance which may be devolved upon local associations or unions. But the world of business and finance is already unified. The worlds of scientific knowledge and humane effort are nearly so. Isolation of any kind is increasingly impossible, and world organization, already centralized, is no more likely to return to disconnected effort than the United States is likely to revert to the Calhoun theory of States' Rights and Secession.

IN ACTUAL OPERATION IF NOT IN ORIGINAL CONCEPTION THE LEAGUE REALIZES THE PRINCIPLE AND THE HOPES OF THE HAGUE CONFERENCES.

The operation of the League has therefore evolved a Council widely different from the body imagined by the makers of the Covenant. It can employ no force but that of persuasion and moral influence. Its only actual powers are to confer and advise, to create commissions, to exercise inquisitive, conciliative and arbitral functions, and to help elect judges of the Permanent Court.

In other words the force of circumstances is gradually moving the League into position upon the foundations so well laid by the world's leaders between 1899 and 1907 in the great international councils of that period. The Assemblies of the League and the Congresses of the International Labor Organizations are successors to the Hague Conferences.

The Permanent Court has at least begun to realize the highest hope and purpose of the Second Hague Conference.

The Secretariat and the Labor Office have become Continuation Committees for the administrative work of the organized world, such as the Hague Conferences lacked resources to create but would have rejoiced to see.

The Council, resolving loose and large theories into clean-cut and modest practice, has been gradually reconciling the League, as an organized world, with the ideals of international interdependence, temporarily obscured since 1914 by the shadows of the Great War.

No one can deny that the organs of the League have brought to the service of the forces behind those ideals an efficiency, scope and variety of appeal that in 1914 would have seemed incredible.

It is common knowledge that public opinion and official policy in the United States have for a long time, without distinction of party, been favorable to international conferences for the common welfare, and to the establishment of conciliative, arbitral and judicial means for settling international disputes.

There is no reason to believe that the judgment and policy have been changed. Along these same lines the League is now plainly crystallizing, as has been shown, and at the touch of the United States the process can be expedited.

In no other way can the organized world, from which the United States cannot be economically and spiritually separated, belt the power of public opinion to the new machinery, devised for the pacific settlement of controversies between nations and standing always ready for use.

CONDITIONS UNDER WHICH THE UNITED STATES SHOULD PARTICIPATE IN THE LEAGUE'S WORK.

The United States Government should be authorized to propose cooperation with the League and participation in the work of its Assembly and Council under the following conditions and reservations.

No Obligation to Interfere or to Admit Interference.

I. The United States accepts the League of Nations as an instrument of mutual counsel, but it will assume no obligation to interfere with political questions of policy or internal administration of any foreign State.

In uniting its efforts with those of other States for the preservation of peace and the promotion of the common welfare, the United States does not abandon its traditional attitude concerning American independence of the Old World and does not consent to submit its long-established policy concerning questions regarded by it as purely American to the recommendation or decision of other Powers.

No General Agreement to Use Coercion.

II. The United States will assume no obligations under Article X, in its present form in the Covenant, unless in any particular case Congress has authorized such action.

The United States will assume no obligations under Article XVI, in its present form in the Covenant or in its amended form as now proposed, unless in any particular case Congress has authorized such action.

The United States proposes that Articles X and XVI

be either dropped altogether or so amended and changed as to eliminate any suggestion of a general agreement to use coercion for obtaining conformity to the pledges of the Covenant.

No Automatic Obligation Under the Peace Treaties.

III. The United States Government will accept no responsibility and assume no obligation in connection with any duties imposed upon the League by the peace treaties, unless in any particular case Congress has authorized such action.

League Admission Assured to Any Self-Governing State.

IV. The United States Government proposes that Article I of the Covenant be construed and applied, or, if necessary, redrafted, so that admission to the League shall be assured to any self-governing State that wishes to join and that receives the favorable vote of two-thirds of the Assembly.

Progressive Development of International Law.

V. As a further condition of its participation in the work and counsels of the League, the United States asks that the Assembly and Council consent—or obtain authority—to begin collaboration for the revision and development of international law, employing, for this purpose, the aid of a commission of jurists. This commission would be directed to formulate anew existing rules of the law of nations, to reconcile divergent opin-

ions, to consider points hitherto inadequately provided for but vital to the maintenance of international justice, and in general to define the social rights and duties of States. The recommendations of the commission would be presented from time to time, in proper form for consideration, to the Assembly as to a recommending if not a lawmaking body.

Among these conditions Numbers I and II have already been discussed. Number III is a logical consequence of the refusal of the United States Senate to ratify the treaty of Versailles, and of the settled policy of the United States which is characterized in the first reservation. Concerning Numbers IV and V this may be said:

Anything less than a world conference, especially when Great Powers are excluded, must incur, in proportion to the exclusions, the suspicion of being an alliance, rather than a family of nations. The United States can render service in emphasizing this lesson, learned in the Hague Conferences, and in thus helping to reconstitute the family of nations as it really is. Such a conference or assembly must obviously bear the chief responsibility for the development of new parts of the law of nations, devised to fit changed and changing conditions, to extend the sway of justice, and to help in preserving peace and security.

INDEX

INDEX

Abolition of militarism, 192
Air Service, 252
Appendix on Conference plan, 104 *ff.*
Arbitration, 29 *ff.*, 72 *ff.*, 152, 192, 221, 266
Army Organization, 246 *ff.*
Arthur, Paul H., 423, 424
Associate Membership in the League of Nations, 177 *ff.*
Association of nations, 51–63
Atkins, David, 317, 318

Bismarck, 348
Bodin, Jean, 426
Bok, Edward W., 189
Borchard, Edwin, 49, 50
Borglum, Gutzon, 37, 115, 116
Brent, Rt. Rev. Charles H., 381, 382
Brunchen, Ernest, 209, 210
Bureau of Conciliation, 257 *ff.*
Business, 133, 198, 405 *ff.*

Canals, 122 *ff.*
Cartels, trade regulation by, 215 *ff.*
Causes of war, 140 *ff.*, 238 *ff.*, 321 *ff.*, 349 *ff.*, 363 *ff.*, 405 *ff.*
Cavour, 269
Characteristics of the plans, 8, 10 *ff.*, 46 *ff.*
Church, the, 133, 205 *ff.*, 401, 437
Citizen Army, 246 *ff.*
Clausewitz, 238
Collin, Charles Avery, 35
Colonies, 122
Commission of Jurists, 156, 158 *ff.*
Competition in production and distribution, 196
Conditions for U. S. co-operation with the League of Nations
Conference machinery, 91 *ff.*, 280
Conferences, 81 *ff.*, 91 *ff.*, 166 *ff.*, 189 *ff.*, 261 *ff.*, 278 *ff.*, 420 *ff.*, 433 *ff.*
Conquest and exploitation, 195
Conscription, 160
Constitution as basis of equal association of nations, 301 *ff.*
Co-operation of nations, 277 *ff.*, 363 *ff.*, 383 *ff.*, 447 *ff.*
Co-operation of U. S. with the League of Nations, 447 *ff.*
Co-operative management, 200
Council of Vigilance and Inquiry, 156 *ff.*
Courts, international, 52, 62, 67 *ff.*, 84 *ff.*, 101 *ff.*, 118 *ff.*, 154 *ff.*, 270 *ff.*, 288, 315, 343 *ff.*, 395 *ff.*, 405 *ff.*, 415 *ff.*, 435 *ff.*, 448 *ff.*, 451 *ff.*
Crime of war, 343 *ff.*
Criminal Court, International, 343 *ff.*
Culbertson, William S., 79, 80

Debts and reparations, 40
Declaration of Interdependence, 151 *ff.*
Declaration of policy by U. S., 31 *ff.*
Diplomacy, 263 *ff.*, 355 *ff.*
Disarmament, 346 *ff.*
Discipline, school and family, 203 *ff.*
Discussion, proposals involving need for, 22 *ff.*

Economic plans, 36 *ff.*
Economic policies, 37, 55 *ff.*, 88, 167, 385 *ff.*

Education for peace, 164 *ff.*, 258 *ff.*, 400 *ff.*, 425 *ff.*, 433 *ff.*
Educational plans, 41 *ff.*
Elimination of states, 431
Eliot, Charles W., 187, 188
Ellsworth, Oliver, 343 *ff.*
Equal Association of Nations, 301 *ff.*

Foreign policies, 58
Free trade, 363 *ff.*

General treaty, 306 *ff.*
Governmental forms, 34 *ff.*
Grey of Falloden, Viscount, 257

Haber, 136
Hague, Court and Conference, 62, 68, 137, 283 *ff.*, 354, 455 *ff.*, 459
Harding, Warren G., 68, 448 *ff.*, 451
Herter, Christian, 65, 66
High seas and trade, 121 *ff.*
Holt, Lord, 411
Howe, Ernest Joseph, 361, 362
Hudson, Manley O., 275, 276
Hughes, Charles E., 68, 395, 449, 451

Industrial organization, 215 *ff.*
Interdependence, declaration of, 151 *ff.*
International Bureaus, Councils, and Commissions, 97 *ff.*, 222 *ff.*, 274, 293
International Law, 67, 84 *ff.*, 152, 220 *ff.*, 224 *ff.*, 267 *ff.*, 306, 313 *ff.*, 344 *ff.*, 396, 418 *ff.*, 458 *ff.*
International police, 21 *ff.*
International relations, 59, 151 *ff.*, 194, 219 *ff.*
International Trade and Industrial Commissions, 62, 193, 215
Investments, international, 218 *ff.*
Isaacs, Dr. Nathan, 20, 403, 404

Joint High Commission of War, 265 *ff.*
Jordan, Dr. David Starr, 35, 255, 256

Kanner, Dr. Heinrich, 359
Kemal Pasha, 131
Knox, Senator, 178 *ff.*, 181

Labor, 44, 134, 295
Lape, Esther Everett (Introduction), 1–47
Law and liberty, 201 *ff.*
Law of Flow, 319 *ff.*
Leadership of U. S. in the world, 454 *ff.*
League of Nations, 25 *ff.*, 36 *ff.*, 53, 59 *ff.*, 68 *ff.*, 86 *ff.*, 90 *ff.*, 129 *ff.*, 155 *ff.*, 173 *ff.*, 208, 270 *ff.*, 277 *ff.*, 315, 387 *ff.*, 429, 440, 447 *ff.*
Levermore, Charles Herbert, 445, 446
Limitation of Armament, 130 *ff.*, 161 *ff.*, 192, 262, 293, 346 *ff.*

Marshall, Chief Justice, 411
McKinley, William, 68
Medium of exchange among nations, 329 *ff.*, 338 *ff.*
Morris, Lewis, 443
Munitions, 33 *ff.*, 161 *ff.*
Mussolini, 131, 134

Nations and conceptions of nationalism, 44 *ff.*, 81 *ff.*, 303 *ff.*, 315, 425 *ff.*
Naval policy, 251
Non-suability of sovereigns, 409 *ff.*

Objections to League of Nations, 175 *ff.*, 185 *et passim*
Oil industry, 38
Outlawing of war, 30 *ff.*, 153

Palmer, John McAuley, 231, 232

Peace Council, 89
Peace Organization, 243 *ff.*, 282 *ff.*, 298
Penalties in World Court, 125, 154 *ff.*, 273, 344 *ff.*, 352
Perris, George H., 262
Physical force not in League in operation, 452 *ff.*
Plans submitted, summary of, 3 *ff.*
Poincaré, 131
Political opportunists, 27 *ff.*
Preventability of war, 8 *ff.*
Private citizens, claims of, 406 *ff.*
Protective policies, 55 *ff.*, 368 *ff.*

Raw materials, organization of trade in, 211 *ff.*
Regional league proposals, 29
Religion, 205 *ff.*, 384, 431, 443
Renan, 135
Reparations, 40, 386
Rhodes, Cecil, 43
Roosevelt, Theodore, 68
Root, Elihu, 68

Scientists, organization of, 135 *ff.*
Scott, Dr. James Brown, 257
Secretary of Peace, 257
Smith, Adam, 366 *ff.*
Sovereigns, 409 *ff.*
Stanfield, Theodore, 20, 341, 342
Stinson, J. Witla, 299, 300
Strunsky, Simeon, 171, 172
Superstate plans, 13 *ff.*
Super-states, 442
Supply and demand, 319 *ff.*
Swiss Military System, 236 *ff.*, 245 *ff.*

Taft, William Howard, 257
Tariffs, 368 *ff.*
Taussig, Prof. F. W., 370 *ff.*
Technocracy, 43, 135 *ff.*
Thomas, M. Carey, 149, 150
Trade, as root of disputes, 118 *ff.*, 211 *ff.*, 264
Training in world citizenship, 160 *ff.*
Treaties, international, 90 *ff.*, 303 *ff.*, 420 *ff.*, 459

Universal Treaty, 73 *ff.*

Value and the law of flow, 331 *ff.*

Waldersee, Count, 353
War prevented through law, 20 *ff.*
Wars, 30 *ff.*, 52, 67, 75, 103, 129, 139 *ff.*, 151 *ff.*, 184, 227 *ff.*, 233 *ff.*, 262 *ff.*, 319, 321 *ff.*, 338 *ff.*, 349 *ff.*, 363 *ff.*, 392
Waterways and trade, 121 *ff.*
Welfare activities of the League of Nations, 450 *ff.*
Wheeler, Everett P., 35
Will to peace, 383 *ff.*
Wilson, Samuel Peter, 127, 128
Wilson, Woodrow, 129, 181
Winning plan, 447 *ff.*
Witte, Count Sergius, 264
World Court Papers, 16 *ff.*
World Courts, 52, 62, 67 *ff.*, 84 *ff.*, 101 *ff.*, 118 *ff.*, 154 *ff.*, 270 *ff.*, 288, 315, 343 *ff.*, 395 *ff.*, 405 *ff.*, 415 *ff.*, 435 *ff.*, 448 *ff.*, 451 *ff.*
World Technical Convention, 144 *ff.*
Worth in ineligible plans, 5 *ff.*
Writers of the plans, 7 *ff.*

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